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F 7b

MEMORANDUM

To: Commissioners and Interested Parties

From: Peter Douglas, Executive Director
Robert S. Merrill, North Coast District Manager
Tiffany S. Tauber, Coastal Planner

Date: January 10, 2008

Subject: **Addendum to Commission Meeting for Friday, January 11, 2008
North Coast District Item F 7b, City of Fort Bragg LCP Amendment
No. MAJ-1-06 (LCP Update)**

STAFF NOTES:**1. Contents of Addendum**

This addendum (1) makes changes to suggested modifications contained in the staff recommendation based on discussions between Commission staff and City staff, (2) responds to issues raised by the City in its letter dated January 9, 2008, (3) adds suggested modifications regarding planting restrictions associated with development within and adjacent to ESHA, (4) inserts missing cross-reference section numbers in Chapter 18.56-Shoreline Access, and (5) attaches two items of correspondence, including the City's letter referenced above (Attachment 1) and a letter from Rixanne Wehren on behalf of the Mendocino Sierra Club (Attachment 2).

Since the staff report dated December 21, 2007 was mailed, staff has had several further meetings with City representatives to discuss the suggested modifications contained in the staff recommendation. As a result of those discussions, staff is making certain additions, clarifications, and/or corrections to the recommended suggested modifications to the LUP and IP to address concerns raised by the City.

The City has also submitted a letter to the Commission dated January 9, 2008 that outlines and discusses the City's request for further revisions to several suggested modifications that had not been fully resolved during meetings with Commission staff (see Attachment 1). This addendum includes the table entitled "*City of Fort Bragg – Requested Modifications*" from the City's letter to which staff has added a response below each of the City's requests.

This addendum also adds several new suggested modifications to the LUP and IP regarding planting associated with development located within or adjacent to environmentally sensitive habitat areas (ESHA). Consistent with the Commission's standard requirements, the suggested modifications would (1) require that all planting within or adjacent to ESHA be obtained from local genetic stocks, and (2) prohibit the planting of any plant species on the property that is (a) listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, and/or by the State of California, or (b) listed as a 'noxious weed' by the State of California or the U.S. Federal Government. These modifications are described as #16 on page 21, #3 on page 25, and #6 on page 27 of this addendum.

Lastly, of a more minor nature, this addendum adds the Section number cross-references for Chapter 18.56 – Shoreline Access that were previously left blank and indicated by "###."

This Addendum is organized as follows:

- I. Staff Response to City's letter dated January 9, 2008
- II. Revisions to LUP Suggested Modifications
- III. Revisions to IP Suggested Modifications
- IV. Addition of Section cross-references to Chapter 18.56 – Shoreline Access
- V. Correspondence
 - Attachment 1 – Letter from the City of Fort Bragg dated January 9, 2008
 - Attachment 2 – Letter from Mendocino Sierra Club dated December 30, 2007

2. Areas of Known Controversy

The majority of the concerns expressed by the City to date about particular suggested modifications have been resolved by making revisions, additions, and/or corrections to the suggested modifications as described in Sections II. and III. of this Addendum. However, two primary areas of outstanding controversy remain at this time regarding (1) requiring the reservation of adequate services to serve existing and projected priority uses that would increase density, and (2) allowing pipelines and utility lines in environmentally sensitive habitat areas (ESHA) other than wetlands. These issues are discussed in further detail below and are shown as Item #3 and #6 of the City's letter included in Section I. of this Addendum.

1. Adequate Services for Priority Uses

The suggested modifications recommended by staff include the addition of Policy PF-B to the City's proposed LUP that requires certain residential development not allowed by right, including land divisions and other conditional uses, to demonstrate that the residential development would not adversely impact the provision of services for priority uses including coastal dependent industrial and visitor serving, recreational uses. Preserving, protecting, and enhancing priority uses in the coastal zone, such as coastal-dependent land uses, visitor serving facilities, commercial fishing, and recreational boating are required by Sections 30250, 30254, 30220, 30221, 30222, and 30224, and 30234 of the Coastal Act.

As described in the narrative text of the City's proposed Public Facilities Element, the City anticipates making certain future improvements to its water supply and sewer treatment infrastructure to ensure that there will be adequate services to serve existing and projected development. As proposed, the LCP amendment does not involve land use changes in the coastal zone that would significantly increase demand on the City's services. Nevertheless, because the City's current water and wastewater treatment facilities face certain capacity limitations, Commission staff believes it is necessary to include a mechanism to ensure that services needed to serve priority uses, such as visitor-serving facilities, commercial fishing, and recreational boating, would not be precluded by other types of non-priority development consistent with the requirements of Coastal Act Section 30254.

Policy PF-B recommended by staff prohibits certain residential development that is not principally permitted under the LCP as amended unless it is demonstrated, in applicable part, that adequate service capacity would be retained to accommodate existing and projected future priority uses. Such priority uses include coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts.

The City has expressed objection to Policy PF-B on the basis that it is not clear how the policy would be implemented. The City has stated that while it may be possible to apply the policy to *existing* priority uses, it would be difficult to identify *projected* future priority uses and assess and reserve an adequate level of services for such future uses as required by the policy. Additionally, the City asserts that Policy PF-B is overly broad and cumbersome and requests that the policy be deleted.

Staff believes that Policy PF-B is necessary and should not be deleted, as it provides a mechanism to ensure that services needed to serve priority uses, such as visitor-serving facilities, commercial fishing, and recreational boating, would not be precluded by other types of non-priority development consistent with the requirements of Coastal Act Section 30254. However, staff agrees that the original version of PF-B is cumbersome and thus, staff recommends replacing originally recommended Policy PF-B with the following revised structure and language for greater clarity:

Policy PF-B: Ensure Adequate Service Capacity for Priority Uses.

- A. (i) Land divisions, including lot line adjustments, mergers and issuance of conditional certificates of compliance, and (ii) residential development allowed by use permit shall be prohibited unless it is demonstrated that, taking into account existing, authorized, and probable residential development allowed in residential districts without a use permit,**

(a) adequate services exist to serve the proposed parcels and building sites consistent with the requirements of Policies PF-1.1 and PF-A above, and

(b) adequate service capacity would be retained to accommodate existing, authorized, and probable priority uses. Such priority uses include, but are not limited to, coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational uses in commercial, industrial, parks and recreation, and public facilities districts.

- B. Prior to approval of a coastal development permit, the Planning Commission or City Council shall make the finding that these criteria have been met. Such findings shall be based on evidence that adequate service capacity remains to accommodate the existing, authorized, and probable priority uses identified above.**

Implementation of this and related policies would involve conducting an inventory of existing priority uses as well as authorized, but not built priority uses and probable future priority uses in the City at the time development described in subsection (A)(i) & (ii) is proposed. The inventory data would be used to calculate the amount of services necessary to adequately serve existing, approved but not yet constructed, and probable future uses, thus ensuring that there is a mechanism in place in the City's amended LCP to preserve, protect, and enhance priority uses consistent with the requirements of Sections 30250, 30254, 30220, 30221, 30222, and 30224, and 30234 of the Coastal Act.

2. Allowable Uses within ESHA

The City has requested that Policy OS-ESHA-E which enumerates allowable uses within ESHA (other than wetlands) be revised to include "*incidental public service purposes, including but not limited to extensions of cables and utility lines.*" The City points out that this provision is contained in Coastal Act Section 30233(a)(4) which allows such development within wetlands and open coastal waters and thus, such development should similarly be allowed within other types of ESHA. However, Coastal Act Section 30240(a) limits uses within other types of ESHA to "*only uses dependent on those resources.*" Thus, allowing the installation of development such as pipelines, cables, and utility lines within ESHA would not be consistent with Coastal Act Section 30240(a). However, installing such development using directional drilling methods such that the development would be located underneath the ESHA rather than through the ESHA in a manner that would avoid any direct disruption of the habitat, would be consistent with the limitations of Coastal Act Section 30240. Staff supports modifying Policy OS-ESHA-E by adding provisions for the installation of pipelines and utility lines underneath the

ESHA using directional drilling techniques designed to avoid significant disruption of habitat values. The City has indicated in Item #6 of their letter dated January 9, 2008 that the City would not support a requirement that direction drilling be used in all instances to avoid pipelines and utilities being installed in an ESHA, as it may not always be feasible to do so. Staff notes that the language added by staff allows installation of pipelines and utility lines by directional drilling, but does not mandate its use. Where such techniques are not feasible, the applicant would have to re-route the pipelines or utility lines around ESHA so as not to locate such development within ESHA. Staff believes that in cases where it is not feasible to install non-resource dependent development in a manner that would avoid the ESHA, Section 30240 of the Coastal Act precludes such development. Staff recommends the following alternative modification to the City's requested changes to Policy OS-ESHA-E:

Policy OS-ESHA-E: Development within Other Types of ESHA shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses:

1. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that (1) the length of the trail within the riparian corridor shall be minimized, (2) the trail crosses the stream at right angles to the maximum extent feasible, (3) the trail is kept as far up slope from the stream as possible, (4) trail development involves a minimum of slope disturbance and vegetation clearing, and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.

2. Restoration projects where the primary purpose is restoration of the habitat.

3. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

4. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.

I. STAFF RESPONSE TO CITY'S LETTER DATED JANUARY 9, 2008

The following table is inserted from the City's letter to the Commission dated January 9, 2008. Following each issue raised by the City in the table is staff's response, a brief discussion of the issue, and recommended modifications where such modifications differ from those requested by the City.

The suggested modifications are shown in the same format as Exhibit No. 1 (LUP) and Exhibit No. 2 (IP) of the staff report dated December 21, 2007. Additional language to be added to the suggested modifications is shown in ***bold italics***. Language to be deleted from the suggested modifications is shown in double strikethrough.

City of Fort Bragg – Requested Modifications

Page/Policy	City's proposed alternative language	Rationale
#1: LUP p. 2-25; Policy LC-2.2	At beginning of second sentence, insert clause reading: <u>"If and when average annual occupancy rates at Fort Bragg visitor facilities exceed 70%"</u> removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor-serving or recreational opportunities.	The City of Fort Bragg has an over-supply of low cost visitor accommodations. In fact, 77% of Fort Bragg's motel rooms are budget rooms and at the same time, the City's average annual occupancy rate is about 30%. This is marginal, at best. Not only is the City interested in attracting higher end lodging uses, but we also expect that some of the low-end, poor performing motels will close over time. As proposed, this policy would likely prevent motels from being converted to other beneficial uses (such as apartments; senior housing, single room occupancy dwellings, etc.) and would result in blighted, boarded-up, squalor in our scenic, tourist-oriented town. The policy is a solution—looking for a problem that doesn't exist in Fort Bragg and the Council believes it will result in significant adverse consequences for our community. While, the Council would prefer for this policy to be deleted, we have proposed alternative language that will "trigger" the policy when occupancy rates are high enough to potentially attract additional investment in the lodging sector, at which point the loss of lower cost rooms might become an issue.
Staff Response: Staff agrees with the City's requested modification.		
#2: LUP p. 3-5, Policy PF-A	<p>Modify subsection (a) to replace "exists" with <u>"will be available upon completion"</u> and to change "known and foreseeable" to <u>"existing and probable"</u></p> <p>Modify subsection (b) to replace "known and foreseeable" to <u>"existing and probable"</u></p> <p>Delete subsection (c)</p>	<p>The City's preference is for these subsections to be stricken as subsection (a) is overly-broad; subsection (b) is redundant with policies in the Circulation Element; and subsection (c) is implicit and unnecessary. We believe that Policy PF-A is sufficient without the three subsections.</p> <p>In the spirit of compromise, the City has offered alternative language. The change to (a) is intended to conform it to the language in the body of the policy which requires that new development "be served upon completion with adequate services" and the replacement of "known and foreseeable" with "existing and probable" is intended to use consistent terminology throughout the document to identify cumulative development. This is the only policy that uses the "known and</p>

Page/Policy	City's proposed alternative language	Rationale
		foreseeable" phrase. Subsection (c) is unnecessary as the body of the policy begins with phrase "No permit for development shall be approved unless..."
<p>Staff Response: Staff agrees with the City's alternative language. Staff believes that subsection (a) and (b) should be retained to provide further detail to carry out Policy PF-A. However, staff agrees with the City's alternative language and has revised the policy as follows:</p> <p>Policy PF-A: <u>Ensure Adequate Services and Infrastructure for New Development. No permit for development shall be approved unless it can be demonstrated that such development will be served upon completion with adequate services, including but not limited to potable water; wastewater collection, treatment and disposal; storm drainage; fire and emergency medical response; police protection; transportation; schools; and solid waste collection and disposal; as applicable to the proposed development.</u></p> <p><u>a. Demonstration of adequate water and sewer facilities shall include evidence that adequate capacity will be available upon completion of exists within the system to serve the development, and all other existing, authorized, and probable known and foreseeable development the system is committed to serving, and that the municipal system will provide such service for the development;</u></p> <p><u>b. Demonstration of adequate road facilities shall include information demonstrating that (i) access roads connecting to a public street can be developed in locations and in a manner consistent with LCP policies and (ii) that the traffic generated by the proposed development, and all other existing, authorized, and probable known and foreseeable development, will not cause Levels of Service (LOS) of roads, streets, and intersections within the City to reduce below LOS standards contained in Policy C-1.1 of the Circulation Element of the Coastal General Plan.</u></p> <p><u>c. Lack of adequate services to serve the proposed development shall be grounds for denial of the development.</u></p>		
#3: LUP p. 3-5; Policy PF-B	Delete Policy PF-B.	Policy PF-B is unacceptable to the City. The Council is committed to implementing Policy PF-C which reiterates Coastal Act Section 30254 and there are numerous policies in the LCP pertaining to giving precedence to priority uses when there is limited service capacity. Policy PF-B takes this concept too far. It is overly-broad, cumbersome, and in truth, barely comprehensible.
<p>Staff Response: Staff disagrees with City's request to delete Policy PF-B. Staff believes that Policy PF-B is necessary, as it provides a mechanism to ensure that services needed to serve priority uses, such as visitor-serving facilities, commercial fishing, and recreational boating, would not be precluded by other types of non-priority development consistent with the requirements of Coastal Act Section 30254. Staff agrees that the original version of PF-B is cumbersome and thus, staff has replaced Policy PF-B with the following language for greater clarity:</p> <p>Policy PF-B: <u>Ensure Adequate Service Capacity for Priority Uses.</u></p> <p>A. (i) Land divisions, including lot line adjustments, mergers and issuance of conditional certificates of compliance, and (ii) residential development allowed by use permit shall be prohibited unless it</p>		

Page/Policy	City's proposed alternative language	Rationale
<p><i>is demonstrated that, taking into account existing, authorized, and probable residential development allowed in residential districts without a use permit,</i></p> <p><i>(a) adequate services exist to serve the proposed parcels and building sites consistent with the requirements of Policies PF-1.1 and PF-A above, and</i></p> <p><i>(b) adequate service capacity would be retained to accommodate existing, authorized, and probable priority uses. Such priority uses include, but are not limited to, coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational uses in commercial, industrial, parks and recreation, and public facilities districts.</i></p> <p><i>B. Prior to approval of a coastal development permit, the Planning Commission or City Council shall make the finding that these criteria have been met. Such findings shall be based on evidence that adequate service capacity remains to accommodate the existing, authorized, and probable priority uses identified above.</i></p>		
#4: LUP p. 3-6; Policy PF-2.2	<p>Reword policy to read:</p> <p><u>"Develop long-term solutions regarding the supply, storage, and distribution of potable water and develop additional supplies. In addition to capacity for potential buildout under the City General Plan, such water facilities and supplies shall be designed to serve a capacity of development in the coastal zone which does not exceed the amount of development allowed by the certified LCP. The City's water master plan shall identify water system improvements or changes in service area that are designed to ensure adequate service capacity to accommodate existing and probable future coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts."</u></p>	<p>As drafted in the "suggested modifications", this policy has two problems. First, it doesn't account for the fact that only a fraction of the City's water service area is in the coastal zone and there is a need to provide adequate water supply for future growth outside of the coastal zone. Second, it crudely attempts to link the concept of reserving capacity for priority uses to the sizing and design of individual water supply projects, which are often incremental solutions. As revised, it addresses the entire water service area and correctly identifies the City's water master plan as the comprehensive policy document that identifies and prioritizes improvement projects and that can help achieve the intent of this policy.</p>
<p>Staff Response: Staff agrees with a portion of the City's alternative language. Staff agrees with the City's revisions to the 1st sentence to clarify that the City's water system(s) also serve portions of the City located outside of the coastal zone. Staff has alternatively revised the 2nd sentence based on comments from the City that the phrase "sized and designed" goes beyond planning policy and rather, speaks to the technical engineering requirements necessary to achieve the intent of the policy. This phrase has been deleted while the substance of the policy requiring that adequate services be reserved for priority uses remains unchanged. Additionally, the City requested consistency with terms used to address cumulative impact analysis. Thus, where applicable, all such language has been revised to read "existing, authorized, and probable," which captures not only existing and known future developments, but also development that has been approved but not yet constructed. Staff recommends that Policy PF-2.2 be revised as follows:</p> <p>Policy PF-2.2 <u>Potable Water Capacity:</u> Develop long-term solutions regarding the supply, storage, and distribution of potable water and develop additional supplies. <i>In addition to capacity for potential build-out</i></p>		

Page/Policy	City's proposed alternative language	Rationale
<p>under the City General Plan outside the coastal zone, such water facilities and supplies are shall be designed to serve a capacity of development in the coastal zone which does not exceed the amount of development allowed by the certified LCP, and where found to be consistent with all other policies of the LCP and General Plan. Any proposed water supply system capacity, expansions, or changes in service area shall be sized and designed to reserve adequate service capacity to accommodate existing, authorized, and projected probable future coastal dependent priority uses. Such uses include, but are not limited to, industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts.</p>		
#5: LUP p. 3-8; Policy PF-2.5	<p>Replace 2nd and 3rd sentences with following: <u>"In addition to capacity for potential buildout under the City General Plan, expanded wastewater facilities shall be designed to serve a capacity of development in the coastal zone which does not exceed the amount of development allowed by the certified LCP. The City's wastewater master plan shall identify wastewater system improvements or changes in service area that are designed to ensure adequate service capacity to accommodate existing and probable future coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts."</u></p>	<p>This policy is the wastewater equivalent of Policy PF-2.2 (see above) and the City's rationale for proposing the alternative language is the same as for PF-2.2.</p>
<p>Staff Response: Staff agrees with a portion of the City's alternative language. Staff recommends modifying Policy PF-2.5 in the same matter as Policy 2.2 above.</p> <p>Policy PF-2.5 <u>Wastewater:</u> Review wastewater capacity and expansion plans as needed when regulations change and as the treatment and disposal facility nears capacity. <i>In addition to capacity for potential build-out under the City General Plan outside the coastal zone, aAny expansion of capacity of wastewater facilities shall be prohibited unless such upgrades are designed to serve a level of development in the coastal zone which does not exceed the level of development allowed by the certified LCP, and where found to be consistent with all other policies of the LCP and General Plan. Any proposed wastewater capacity, expansions, or change in service area shall be sized and designed to reserve adequate service capacity to accommodate existing, authorized, and projected probable future coastal dependent priority uses. Such uses include, but are not limited to, industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts.</i></p>		
#6: LUP p. 5-3; Policy OS-ESHA-E; LUP p. 5-9; Policy LC-3.4	<p>Add subsection (4) as follows: <u>"(4) Incidental public service purposes, including but not limited to extensions of cables and utility lines."</u></p>	<p>While diking, filling, and dredging of wetlands and coastal water is permitted for cables, pipelines and other incidental public service purposes (see OS-ESHA-C), OS-ESHA-A as proposed by Commission staff does not allow these uses in other ESHAs. This is an oversight, as oftentimes other ESHAs (i.e., riparian) are associated with wetlands and coastal waters and there may be a need to</p>

Page/Policy	City's proposed alternative language	Rationale
		locate such facilities in an ESHA. The Council will not support a "blanket" requirement that directional drilling be used in all instances where pipelines and utilities are installed in an ESHA as it may not always be feasible to do so.

Staff Response: Staff disagrees with the City's request, but provides alternative language. The City points out that Coastal Act Section 30233(a)(4) allows, in part, burying cables and pipes within wetland ESHA. However, Coastal Act Section 30240(a) limits uses within other types of ESHA to resource dependent uses. Thus, allowing the installation of pipelines and utility lines within ESHA by means other than directional drilling for installation of such development below the ESHA would not be consistent with Coastal Act Section 30240(a). Staff supports modifying Policy OS-ESHA-E by adding provisions for the installation of pipelines and utility lines underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values as follows:

Policy OS-ESHA-E: Development within Other Types of ESHA shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses:

1. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that (1) the length of the trail within the riparian corridor shall be minimized, (2) the trail crosses the stream at right angles to the maximum extent feasible, (3) the trail is kept as far up slope from the stream as possible, (4) trail development involves a minimum of slope disturbance and vegetation clearing, and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.

2. Restoration projects where the primary purpose is restoration of the habitat.

3. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

4. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.

#7: LUP p. 5-10; Policy LC-3.4.1 and Program LC-3.4.2	Delete Policy LC-3.4.1 and Program LC-3.4.2 as it is redundant with OS-ESHA-C	This policy and program were included in the City's initial LCP Amendment submittal. The Commission's suggested modifications, particularly OS-ESHA-C capture their essence and the elimination of the policy and program will reduce redundancy in the LCP.
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Staff Response: Staff disagrees with the City's request, but provides alternative language. Staff believes that Policy LC-3.4.1, originally proposed by the City, includes important standards for projects involving development in wetlands and coastal waters. This policy, in part, mirrors portions of Coastal Act Section 30233(b). Staff recommends adding the term "*to the maximum extent feasible*" to the requirements of subsection (a), as dredging and spoils disposal inherently involve some degree of habitat disruption. Program LC-3.4.2 simply reiterates necessary agency consultation for

Page/Policy	City's proposed alternative language	Rationale
<p>development involving wetlands and makes clear the requirements for such consultation. Thus, staff recommends that Program LC-3.4.2 be retained as originally modified.</p> <p><u>Policy Program LC-3.4.1:</u> Implement the following measures when a project involves dredging, filling or diking of open coastal waters, wetlands, or estuaries, or lakes <u>a wetlands</u>:</p> <ul style="list-style-type: none"> a) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to wetland <u>marine and wildlife</u> habitats and to water circulation <i>to the maximum extent feasible</i>. Avoiding significant disruption means, <u>in part</u>, that the functional capacity of the wetland is maintained <i>to the maximum extent feasible</i>. b) Limitations may be imposed, <u>including but not limited to, limitations</u> on the timing of the operation, the type of operation, the quantity of dredged material removed, and the location of the spoils site. c) Dredge spoils suitable for beach replenishment shall, where feasible, be transported to appropriate beaches or into suitable longshore current systems. d) Other mitigation measures may include opening areas to tidal action, removing dikes, improving tidal flushing, or other restoration measures. <p><u>Program LC-3.4.2:</u> Require <u>Consult with</u> the Department of Fish and Game, <u>California Coastal Commission</u>, and U.S. Army Corps of Engineers, as applicable, <u>on the</u> to review <u>of</u> dredging, filling and diking plans in, or adjacent to wetlands or estuaries to establish mitigating measures.</p>		
#8: LUP p. 5-17 and 5-18; Policy OS- WQ-2.5; Policy OS- WQ-2.6	<p>Modify references to "all development" in policies to read: <u>"all development that results in an increase in site runoff of greater than 50%"</u></p>	<p>The City believes that the application of the Post-Construction Stormwater Runoff Plan requirement to "all development" is too broad. Our Associate City Engineer has recommended that the requirement be applied to development that results in a 50% or greater increase in site runoff.</p>
<p>Staff Response: Staff disagrees with the City's request, but provides alternative language. Staff acknowledges that not all development necessarily requires the submittal of a post-construction runoff control plan. However, the City's proposed threshold would not include all development that could have the potential for adverse impacts to water quality. Therefore, staff recommends modifying Policy OS-WQ-2.5 to clarify that the requirements of these policies apply to all development that has the potential to adversely affect water quality as follows:</p> <p><u>Policy OS-WQ-2.5: Post-Construction Stormwater Runoff Plan. All development that has the potential to adversely affect water quality shall submit a post-construction polluted runoff control plan ("Runoff Mitigation Plan"). This plan shall specify long-term Site Design, Source Control, and, if necessary, Treatment Control BMPs that will be implemented to minimize stormwater pollution and erosive runoff after construction, and shall include the monitoring and maintenance plans for these BMPs.</u></p> <p><u>Policy OS-WQ-2.6: Emphasize Site Design and Source Control BMPs. Long-term post-construction Best Management Practices (BMPs) that protect water quality and control runoff flow shall be incorporated in the project design of development that has the potential to adversely impact water quality in the following order of emphasis:</u></p> <p>...</p>		

Page/Policy	City's proposed alternative language	Rationale
<p><u>Site Design BMPs may reduce a development's need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the need for Treatment Control BMPs. Therefore, all development that has the potential to adversely impact water quality shall incorporate effective post-construction Site Design and Source Control BMPs, where applicable and feasible, to minimize adverse impacts to water quality and coastal waters resulting from the development. Site Design and Source Control BMPs may include, but are not limited to, those outlined in the City's Storm Water Management program.</u></p>		
#9: IP p. 5-11; Sec 18.50.050.C	Insert ",where feasible" at end of first sentence.	
<p>Staff Response: Staff agrees with the City's requested modification.</p>		
#10: IP p. 5-22; Sec 18.52.050.B	Reword to allow for pipelines, utility lines and bridges in ESHA	This is necessary to achieve consistency with requested modification to OS-ESHA-E, as discussed above.
<p>Staff Response: Staff disagrees with the City's request, but provides alternative language. See discussion under #6 above.</p>		
#11: IP p. 5-46; Sec 18.56.090(4)	Add sentence at end that reads: "Temporary signs posted by a public agency for environmental or public safety purposes are exempt from this provision."	This is necessary to enable City/State Parks/DFG to post temporary, short-term, warnings (i.e., "high surf danger", "don't harass seal pups", "don't consume shellfish from this cove" etc)
<p>Staff Response: Staff agrees with the City's request with alternative language. Staff agrees with the City's request to allow temporary signs on a beachfront or public beach for environmental or public safety purposes. However, such signs are not exempt from the need to obtain a CDP, and must be authorized under the emergency permit provisions of the LCP. Thus, staff recommends modifying Section 18.56.090(4) as follows:</p> <p><u>18.56.090. CDP PERMITTING AND APPLICATION</u></p> <p>...</p> <p><u>4. No signs shall be posted on a beachfront or on public beach unless authorized by a Coastal Development Permit. Signs which purport to identify the boundary between State tidelands and private property or which indicate that public access to State tidelands or public lateral or vertical access easement areas is restricted shall not be permitted. Temporary signs posted by a public agency for environmental or public safety purposes may be authorized by the emergency permit provisions of Section 18.71.080 of this Development Code.</u></p>		

CHANGES TO THE SUGGESTED MODIFICATIONS

II. REVISIONS TO LUP SUGGESTED MODIFICATIONS

The suggested modifications are shown in the same format as Exhibit No. 1 of the staff report dated December 21, 2007. Language to be added to the suggested modifications is shown in ***bold italics***. Language to be deleted from the suggested modifications is shown in double strikethrough. Page numbers refer to Exhibit No. 1 of the staff report dated December 21, 2007.

1. Pg. 2-25, Policy LC-2.2, Land Use Element - Revise Policy LC-2.2 to add a threshold for when the policy would take effect to ensure protection of low cost visitor serving facilities:

Policy LC-2.2 Lower Cost Facilities: Protect, encourage, and, where feasible, provide lower-cost visitor and recreational facilities for persons and families of low and moderate income. ***If and when average annual occupancy rates at Fort Bragg visitor facilities exceed 70%,*** ~~Removal or conversion of existing lower cost facilities opportunities shall be prohibited unless the use will be replaced with another facility offering comparable visitor serving or recreational facilities opportunities.~~

2. Pg. 3-5, Policy PF-B, Public Facilities Element - Revise the language and structure of Policy PF-B for greater clarity as follows:

~~***Policy PF B: Certain development, including but not limited to (i) land divisions, including lot line adjustments, mergers and issuance of conditional certificates of compliance, (ii) multi-family dwellings allowed by use permit in residential and commercial districts, (iii) mobile home parks allowed by use permit in residential districts, (iv.) residential care facilities allowed by use permit in residential, commercial, and public facilities districts, (v) organizational houses (sorority, monastery, etc.) allowed by use permit in residential districts, and (vi) rooming or boarding uses allowed by use permits in residential districts are prohibited unless it is demonstrated that, taking into account past, present, and probable residential development allowed in residential districts without a use permit, (a) adequate services exist to serve the proposed parcels and building sites consistent with the requirements of Policies PF 1.1 and PF A above, and (b) adequate service capacity would be retained to accommodate past, present, and probable coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts. Prior to approval of a coastal development permit, the Planning Commission or City Council shall make the finding that these criteria have been met. Such findings shall be based on evidence that adequate service capacity***~~

~~remains to accommodate the past, present, and probable priority uses identified above. Lack of adequate services to serve the past, present, and probable residential development allowed in residential districts without a use permit, as well as the past, present, and probable priority uses specified above, shall be grounds for denial of the above specified development allowed by use permit.~~

Policy PF-B: Ensure Adequate Service Capacity for Priority Uses.

A. (i) *Land divisions, including lot line adjustments, mergers and issuance of conditional certificates of compliance, and (ii) residential development allowed by use permit shall be prohibited unless it is demonstrated that, taking into account existing, authorized, and probable residential development allowed in residential districts without a use permit,*

(a) adequate services exist to serve the proposed parcels and building sites consistent with the requirements of Policies PF-1.1 and PF-A above, and

(b) adequate service capacity would be retained to accommodate existing, authorized, and probable priority uses. Such priority uses include, but are not limited to, coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational uses in commercial, industrial, parks and recreation, and public facilities districts.

B. *Prior to approval of a coastal development permit, the Planning Commission or City Council shall make the finding that these criteria have been met. Such findings shall be based on evidence that adequate service capacity remains to accommodate the existing, authorized, and probable priority uses identified above.*

3. Pg. 3-6, Policy PF-2.2, Public Facilities Element - (1) Revise Policy PF-2.2 to clarify that the City's water system(s) also serve portions of the City located outside of the coastal zone, and (2) delete "sized and designed," and (3) revise terms used to address cumulative impact analysis to read "*existing, authorized, and probable*," which captures not only existing and known future developments, but also development that has been approved but not yet constructed:

Policy PF-2.2 Potable Water Capacity: Develop long-term solutions regarding the supply, storage, and distribution of potable water and develop additional supplies. ~~only where~~ In addition to capacity for potential build-out under the City General Plan outside the coastal zone, such water facilities and supplies are shall be designed to serve a capacity of development which does not exceed the amount of development in the coastal zone allowed by the certified LCP, and where found to be consistent with all other policies of the LCP and General Plan. Any proposed water supply system capacity, expansions, or changes in service area shall be sized and designed

~~to reserve adequate service capacity to accommodate existing, authorized, and projected probable future coastal-dependent priority uses. Such uses include, but are not limited to, industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts.~~

- | |
|--|
| 4. Pg. 3-8, Policy PF-2.5, Public Facilities Element - See discussion of similar changes in #3. above. |
|--|

Policy PF-2.5 Wastewater: Review wastewater capacity and expansion plans as needed when regulations change and as the treatment and disposal facility nears capacity. *In addition to capacity for potential build-out under the City General Plan outside the coastal zone, a*~~Any expansion of capacity of wastewater facilities shall be prohibited unless such upgrades are designed to serve a level of development in the coastal zone which does not exceed the level of development allowed by the certified LCP, and where found to be consistent with all other policies of the LCP and General Plan. Any proposed wastewater capacity, expansions, or change in service area shall be sized and designed to reserve adequate service capacity to accommodate existing, authorized, and projected probable future coastal-dependent priority uses. Such uses include, but are not limited to, industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts.~~

- | |
|---|
| 5. Pg. 5-10, Policy LC-3.4.1, Open Space Element - Revise Policy LC-3.4.1 to add "maximum extent feasible," as dredging and spoils disposal inherently involve some degree of habitat disruption: |
|---|

Policy Program LC-3.4.1: Implement the following measures when a project involves dredging, filling or diking of open coastal waters, wetlands, estuaries, or lakes ~~a wetlands:~~

- a) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to ~~wetland~~ **marine and wildlife** habitats and to water circulation *to the maximum extent feasible*. Avoiding significant disruption means, in part, that the functional capacity of the wetland is maintained *to the maximum extent feasible*.
- b) Limitations may be imposed, **including but not limited to, limitations** on the timing of the operation, the type of operation, the quantity of dredged material removed, and the location of the spoils site.
- c) Dredge spoils suitable for beach replenishment shall, where feasible, be transported to appropriate beaches or into suitable longshore current systems.
- d) Other mitigation measures may include opening areas to tidal action, removing dikes, improving tidal flushing, or other restoration measures.

6. Pg. 5-17, Policy OS-WQ-2.5, Open Space Element - Clarify that the requirements of Policy OS-WQ-2.5 apply to all development that has the potential to adversely affect water quality:

Policy OS-WQ-2.5: Post-Construction Stormwater Runoff Plan. All development that has the potential to adversely affect water quality shall submit a post-construction polluted runoff control plan (“Runoff Mitigation Plan”). This plan shall specify long-term Site Design, Source Control, and, if necessary, Treatment Control BMPs that will be implemented to minimize stormwater pollution and erosive runoff after construction, and shall include the monitoring and maintenance plans for these BMPs.

7. Pg. 5-17, Policy OS-WQ-2.6, Open Space Element - Clarify that the requirements of Policy OS-WQ-2.6 apply to all development that has the potential to adversely affect water quality:

Policy OS-WQ-2.6: Emphasize Site Design and Source Control BMPs. Long-term post-construction Best Management Practices (BMPs) that protect water quality and control runoff flow shall be incorporated in the project design of development in the following order of emphasis:

...

Site Design BMPs may reduce a development’s need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the need for Treatment Control BMPs. Therefore, all development that has the potential to adversely affect water quality shall incorporate effective post-construction Site Design and Source Control BMPs, where applicable and feasible, to minimize adverse impacts to water quality and coastal waters resulting from the development. Site Design and Source Control BMPs may include, but are not limited to, those outlined in the City’s Storm Water Management program.

8. Pg. 7, Introduction Chapter - Add the following policies to subsection F(2) which lists all of the policies contained in the Coastal Land Use Plan that are not considered part of the City’s certified LCP, as requested by the City. The following policies do not involve development standards or Coastal Act issues for purposes of the review and approval of coastal development permits. However, these policies remain in the LCP documents because they constitute standards that apply to other required City approvals and processes and their inclusion provide context and, in some cases, inform the user of requirements other than coastal development permits that may apply to land use decisions within the City.

E. Coastal General Plan

...

2. Organization and Content

...

The following policies and associated programs demarcated with the City seal are not considered part of the City's certified Local Coastal Program for purposes of the review and approval of coastal development permits:

- *Map LU-3 Sphere of Influence*

...

- **Conservation, Open Space, & Parks Element:**

...

- *Policy OS-9.1 (Recycling and Reuse of Solid Waste)*
- *Policy OS-11.4 (Playground Facilities)*
- *Policy OS-11.5 (Ballfields)*
- *Policy OS-11.7 (Financing Parks)*
- *Policy OS-12.3 (City/School/Recreation District Cooperation)*
- *Policy OS-12.4 (Public Participation)*

- **Circulation Element:**

...

- *Policy C-2.6 (Right-of-Way Acquisition)*
- *Policy C-10.2 (Sidewalk Maintenance)*
- *Policy C-10.3 (Financial Concerns – sidewalks)*
- *Policy C-10.5 (Improve Pedestrian Safety)*
- *Policy C-13.1 (Skunk Train)*
- *Policy C-14.1 (Regional Transportation Efforts)*

- **Community Design Element:**

...

- *Policy CD-2.3 (Economic Vitality)*
- *Policy CD-6.3 (Public Awareness)*
- *Policy CD-7.1 (Public Art)*

- **Safety Element:**

...

- *Policy SF-4.3 (Mutual Aid Agreements)*
- *Policy SF-4.4 (Fire Protection Authority)*
- *Policy SF-5.1 (Demand for Police Services)*
- *Policy SF-5.2 (Shared Resources – Police Response)*

- **Housing Element**

- *Policy H-1.1 (Housing Rehabilitation)*

- *Policy H-2.3 (Limited Equity Cooperatives)*
- *Policy H-2.8 (Redevelopment Agency)*
- *Policy H-3.1 (Available Funding Sources)*
- *Policy H-3.3 (House Sharing)*
- *Policy H-3.7 (Large Families)*
- *Policy H-3.9 (Housing for Disabled)*
- *Policy H-3.10 (Emergency and Transitional Housing)*
- *Policy H-3.11 (First Time Home Buyers)*
- *Policy H-4.1 (Equal Housing Opportunity)*
- *Policy H-4.2 (Improve Accessibility to Housing)*
- *Policy H-5.1 (Public Participation)*
- *Policy H-5.2 (Annual Review of Housing Implementation)*

9. Pg. 8, Section (G), Introduction Chapter - Revise Policy 1.1 to clarify that the policies of the Coastal Act guide the interpretation of the City's LUP, but that the City need not adopt all Coastal Act policies.

Policy 1-1: The City shall adopt the policies of the Coastal Act (Coastal Act Sections 30210 through 30264) as the guiding policies of *shall guide the interpretation of the Land Use Plan.*

10. Pg. 2-24, Policy LU-B, Land Use Element - Replace Policy LU-B (Coastal Act Section 30252) with the City's proposed language as follows:

~~**Policy LU-B: The location and amount of new development shall maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing non-automobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisition and development plans with the provision of onsite recreational facilities to serve the new development.**~~

Policy LU-B: The location and amount of new development shall maintain and enhance public access to the coast by (1) facilitating the extension of transit services where feasible, (2) providing non-automobile circulation within the development that includes circulation connections outside of the development, (3) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by ensuring that new development is supported by onsite recreational facilities and/or off-site local park recreational facilities, and (4) utilizing smart growth and

mixed-use development concepts where feasible to improve circulation and reduce auto use, where such auto use would impact coastal access roads.

11. Pg. 2-25, Policy LC-2.1.1, Land Use Element - Correct zoning district nomenclature in subsection b), and replace “designated” with “existing, authorized, and probable.”

~~Program~~ **Policy** LC-2.1.1: Ensure that there are adequate sites for visitor-serving land uses by:

- a) maintaining existing areas designated for Highway-Visitor Commercial uses; and
- b) maintaining the Highway Visitor Commercial ~~(C3)~~ (HVC) land use designation as one allowing primarily recreational and visitor-serving uses.

c) Reserving adequate infrastructure capacity to accommodate designated existing, authorized, and probable visitor serving uses.

12. Pg. 5-2, Policy OS-ESHA-B, Open Space Element - Revise the last three bullets to be consistent with the first such that all bullets read “Any habitat area...”:

Policy OS-ESHA-B: Determination of ESHA....

The following areas shall be considered ESHA:

- **Any habitat area that is rare or especially valuable because of their special nature or role in an ecosystem and is easily degraded or disturbed by human activities or developments.**
- ~~Areas that contribute to the viability~~ **Any habitat area of plant or animal species designated as rare, threatened, or endangered under State or Federal law.**
- ~~Areas that contribute to the viability~~ **Any habitat area of species designated as Fully Protected or Species of Special Concern under State law or regulations.**
- ~~Areas that contribute to the viability~~ **Any habitat area of plant species for which there is compelling evidence of rarity, for example, those designated 1b (Rare or endangered in California and elsewhere) or 2 (rare, threatened or endangered in California but more common elsewhere) by the California Native Plant Society.**

13. Pg. 5-3, Policy LC-3.1, Open Space Element - Delete Policy LC-3.1, as (1) the first sentence is not necessary, as the following policies more specifically enumerate allowable uses within ESHA and ESHA buffers, (2) the second sentence is moved to Policy OS-ESHA-E as shown in #14 below, and (3) the last sentence is duplicative of Policy LC-3.2.

~~**Policy LC 3.1 Special Review Areas:** In environmentally sensitive habitat areas, permit only uses which are dependent on, and which do not degrade or disrupt, such habitat areas. Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values. Development adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts that could significantly degrade the environmentally sensitive habitat areas and shall be compatible with the continuance of those habitat areas.~~

14. Pg. 5-3, Policy OS-ESHA-E, Open Space Element – (1) Move the second sentence of LC-3.1 to Policy OS-ESHA-E as described in #13 above consistent with the requirements of Coastal Act Section 30240(a), and (2) add a provision allowing pipelines and utility lines to be installed underneath ESHA using directional drilling techniques where designed to avoid significant disruption of habitat values:

Policy OS-ESHA-E: Development within Other Types of ESHA shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses:

1. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that (1) the length of the trail within the riparian corridor shall be minimized, (2) the trail crosses the stream at right angles to the maximum extent feasible, (3) the trail is kept as far up slope from the stream as possible, (4) trail development involves a minimum of slope disturbance and vegetation clearing, and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.

2. Restoration projects where the primary purpose is restoration of the habitat.

3. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

4. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.

15. Pg. 5-6, Policy LC-3.2.1, Open Space Element – Delete the requirement for “agreement” among the applicant, agencies, and City regarding the determination of buffer widths, as agreement, in some cases, is not practical or achievable:

Policy Program LC-3.2.1: ...

Development adjacent to ESHA shall provide buffer areas to serve as transitional habitat and provide distance and physical barriers to human intrusion. The purpose of this buffer area is to provide for a sufficient area to protect environmentally sensitive habitats from significant degradation resulting from future development. Buffers shall be of a sufficient size to ensure the biological integrity and preservation of the ESHA they are designed to protect. The width of the buffer area shall be a minimum of 100 feet, unless an applicant can demonstrate, after consultation and agreement with the California Department of Fish and Game, other relevant resource agencies, and the City, that 100 feet is not necessary to protect the resources of that particular habitat area and the adjacent upland transitional habitat function of the buffer from possible significant disruption caused by the proposed development. The buffer area shall be measured from the outside edge of the environmentally sensitive habitat areas and in no event shall be less than 30 feet in width.

16. Pg. 5-13, Policy OS-6.1.3, Open Space Element – Revise Policy OS-6.1.3 to add further specificity to, and strengthen, the prohibition of planting invasive and/or non-native plant species within or adjacent to ESHA to ensure that development within or adjacent to ESHA will not result in significant disruption or degradation of the habitat areas consistent with Coastal Act Section 30240:

Program Policy OS-6.1.3: Condition development projects, ~~including all projects~~ All development located within or adjacent to environmentally sensitive habitat areas shall be conditioned to: requiring discretionary approval to prohibit the planting of any species of broom, pampas grass, gorse, or other species of invasive non-native plants deemed undesirable by the City.

- (1) Require all proposed plantings be obtained from local genetic stocks within Mendocino County. If documentation is provided to the review authority that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used; and*
- (2) Prohibit the planting of any plant species on the property that is (a) listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, and/or by the State of California, or (b) listed as a ‘noxious weed’ by the State of California or the U.S. Federal Government.*

17. Pg. 5-35, Policy LC-2.1, LU-REC-A, B, C, D, E, Policy LC-2.2, Program LC-2.2.1, and Program LC-2.2.2, Open Space Element – (1) Delete the following policies from the Open Space Element to eliminate duplication of these same policies already contained in the Land Use Element, and (2) move Programs LC-2.2.1 & LC-2.2.2 from the Open Space Element to follow Policy LC-2.2 on pg. 2-25 & 2-26 of the Land Use Element.

~~Policy LC 2.1 Additional Sites for Visitor Serving Commercial: Continue to provide for and encourage additional visitor serving commercial facilities.~~

~~Program Policy LC 2.1.1: Ensure that there are adequate sites for visitor serving land uses by:~~

- ~~e) maintaining existing areas designated for Highway Visitor Commercial uses; and~~
- ~~d) maintaining the Highway Visitor Commercial (C3) land use designation as one allowing primarily recreational and visitor serving uses.~~
- ~~e) Reserving adequate infrastructure capacity to accommodate designated visitor serving uses.~~

~~Policy LU REC A: Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.~~

~~Policy LU REC B: Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred.~~

~~Policy LU REC C: The use of private lands suitable for visitor serving and commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal dependent industry.~~

~~Policy LU REC D: Adequate parking should be provided to serve coastal access and recreation uses to the extent feasible. Existing parking areas serving recreational uses shall not be displaced unless a comparable replacement area is provided.~~

~~Policy LU REC E: Coastal areas suited for water oriented recreational activities that cannot readily be provided at inland water areas shall be protected for such uses.~~

~~Policy LC 2.2 Lower Cost Facilities: Protect, encourage, and, where feasible, provide lower cost visitor and recreational facilities for persons and families of low and moderate~~

~~income. Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.~~

~~Program LC 2.2.1: Inventory and monitor lower cost visitor recreational facilities in the City.~~ [Move Program LC-2.2.1 to follow Policy LC-2.2 on pg. 2-25 & 2-26 of the Land Use Element]

~~Program LC 2.2.2: Encourage lower cost visitor and recreational facilities during the project review process with private developers and work with State Parks to expand such facilities on State land.~~ [Move Program LC-2.2.2 to follow Policy LC-2.2 on pg. 2-25 & 2-26 of the Land Use Element]

18. Pg. 6-9, Program C-2.1.1, Circulation Element – (1) Remove strikethrough from subsection (b) and (g), which may involve development within the coastal zone, and (2) revise the LOS standard contained in subsections (j) & (k) as requested by the City.

Program C-2.1.1: When a traffic analysis of levels of service and/or safety hazards indicates the need, construct the following roadway improvements where such roadway improvements are found to be consistent with all applicable policies of the LCP including, but not limited to, the wetland, environmentally sensitive habitat area, public access, and visual protection policies:

- a) Signalize the Main Street/Pudding Creek Road intersection;
- b) ~~Signalize the Franklin Street/Oak Street intersection;~~ [remove strikethrough]
- ...
- g) ~~Construct bicycle lane and pedestrian improvements on Chestnut Street and Oak Street;~~ [remove strikethrough]
- h) ~~When warranted by traffic volumes, install a right turn pocket for westbound travelers on Oak Street at the Oak Street/Harold Street intersection; and~~
- i) Consider extending Harrison Street south from Walnut Street to Cypress Street.
- j) Continue the two northbound through lanes on Main Street from Oak Street to just north of Laurel Street. Stripe the curb lane as a right turn only lane between Redwood Avenue and Laurel Street. ***This improvement shall only be implemented if there are no other feasible circulation improvements that would result in the street operating at a LOS E or better.*** ~~Implement this improvement will be done only if the~~

- ~~improvement in combination with other planned~~ circulation improvements will not result in the street operating above ~~at~~ LOS F.
- k) Construct a second southbound through travel lane on Main Street from Elm Street to Laurel Street. ~~This improvement will be done only if other circulation improvements will not result in the street operating above at LOS F.~~ *This improvement shall only be implemented if there are no other feasible circulation improvements that would result in the street operating at a LOS E or better.*

19. Pg. 7-7, Policy CD-1.1, Community Design Element – (1) Add reference to Design Review exemptions, and (2) revise the last sentence of the policy to retain the City’s originally proposed language to read “Ensure that development is constructed in a manner consistent with the Citywide Design Guidelines.”

Policy CD-1.1 Design Review Guidelines: **All development that has the potential to affect visual resources shall be subject to Design Review unless otherwise exempt from Design Review pursuant to Coastal Land Use & Development Code Section 18.71.050. Design Review approval requirements shall not replace, supersede or otherwise modify the independent requirement for a coastal development permit approved pursuant to the applicable policies and standards of the certified LCP. Design Review approvals shall be granted** Ensure that development is constructed in a manner consistent with the *Citywide* Design ~~Review~~ Guidelines. *[remove single strikethrough of last sentence]*

20. Suggested Modification No. 14 (Organization) - Add subsection (h) to Suggested Modification No. 14, which is a directive modification involving purely organizational changes, to direct the City to make necessary corrections to typographical errors, document formatting (e.g., headers, footers, page numbers, etc.), and all tables of contents in the LCP documents.

14. Suggested Modification No. 14 (Organization)

All changes to the organization of the LCP as follows:

...

(h) Correct all document formatting as necessary including typographical errors, headers/footers, page numbers, tables of contents, etc.

III. REVISIONS TO IP SUGGESTED MODIFICATIONS

The suggested modifications are shown in the same format as Exhibit No. 2 of the staff report dated December 21, 2007. Language to be added to the suggested modifications is shown in ***bold italics***. Language to be deleted from the suggested modifications is shown in double strikethrough. Page numbers refer to Exhibit No. 2 of the staff report mailed on December 21, 2007.

1. Pg. 1-5, Section 18.10.010, Purposes of the Coastal Land Use & Development Code – Combine the first two sentences for clarity as follows:

18.10.010 - Purposes of the Coastal Land Use and Development Code

Title 18 of the Fort Bragg Municipal Code constitutes the City of Fort Bragg Coastal Land Use and Development Code, hereafter referred to as "this Development Code." ~~This Development Code, and in part, constitutes the Implementation Program portion of the City's Local Coastal Program and~~ carries out the policies of the Fort Bragg Coastal General Plan, ~~hereafter referred to as "General Plan,"~~ and Local Coastal Program by classifying and regulating the uses of land and structures development within the City geographic portion of the City located within the coastal zone, consistent with the Coastal General Plan ~~and the Local Coastal Program~~. This Development Code is adopted to protect coastal resources, and to protect and promote the public health, safety, comfort, convenience, prosperity, and general welfare of residents, and businesses in the City. More specifically, the purposes of this Development Code are to: ...

2. Pg. 2-3, Section 18.20.020(D), Correct sentence grammar by changing "was" to "were" as follows:

- D. **Legal parcel.** ~~The site of a p~~ Proposed development or new land uses shall ***only*** be ***sited on*** a parcel that was legally created in compliance with the Subdivision Map Act and Article 8 (Subdivision Regulations and Procedures), ***and had received any necessary coastal development permit. Parcels created after March 1, 1972, the effective date of the Coastal Zone Conservation Act, if applicable, that ~~was~~ were not authorized by a required CDP or otherwise authorized under the Coastal Act, are not legal parcels.***

3. Pg. 3-37 & Pg. 3-44, Chapter 18.34, Landscaping Standards – (1) Revise 18.34.020 to clarify the applicability of Chapter 18.34, and (2) Add subsection (E) to Section 18.34.060 to include landscaping standards for development within or adjacent to ESHA consistent with LUP Policy OS-6.1.3 discussed in Section II. #16 above:

18.34.020 - Applicability

This Chapter shall govern the review and approval of Use Permits, coastal development permits, and all other applicable planning permits.

The provisions of this Chapter apply to all land uses as follows:

- A. **New projects.** Each new nonresidential and multi-family residential project shall provide landscaping in compliance with this Chapter. All residential development projects shall provide street trees in compliance with Section 18.34.060.B.2.d(3).
- B. **Existing development.** The approval of a *coastal development permit*, Minor Use Permit, Use Permit, Minor Variance, Variance, or application for Design Review for physical alterations and/or a change in use within an existing development may include conditions of approval requiring compliance with specific landscaping and irrigation requirements of this Chapter.
- C. **Timing of installation.** Required landscape and irrigation improvements shall be installed before final building inspection. The installation of landscaping for a residential project may be deferred for a maximum of 90 days in compliance with Section 18.76.060 (Performance Guarantees).
- D. **Alternatives to requirements.** The review authority may modify the standards of this Chapter, *with the exception of the standards of Section 18.34.060(E)*, to accommodate alternatives to required landscape materials or methods, where the review authority first determines that the proposed alternative will be equally or more effective in achieving the purposes of this Chapter. The review authority may also modify the requirements of this Chapter to accommodate an affordable housing project in compliance with Chapters 18.31 (Density Bonuses and Affordable Housing Incentives), and 18.32 (Inclusionary Housing Requirements).

...

18.34.060 - Landscape Standards

...

E. **Environmentally Sensitive Habitat Areas.** *All development* located within or adjacent to environmentally sensitive habitat areas *shall be conditioned to:*

- (a) *Require all proposed plantings be obtained from local genetic stocks within Mendocino County. If documentation is provided to the review authority that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used; and*
- (b) *Prohibit the planting of any plant species on the property that is (i) listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, and/or by the State of California, or (ii) listed as a 'noxious weed' by the State of California or the U.S. Federal Government.*

4. Pg. 3-54, Section 18.36.050(A)(2) - Add "State or" as follows:

18.36.050 - Disabled Parking Requirements

- A. **Number of spaces required.**
 - 1. One parking space for the disabled shall be provided within a parking lot with less than 26 spaces. With a Minor Use Permit, a shared space may be provided on a nearby parking lot.
 - 2. Larger parking lots shall include additional spaces for the disabled as required by *State or* Federal law whichever is more stringent at the time of application.

...

5. Pg. 5-11, Section 18.50.050(C) – Clarify that any required mitigation monitoring program, when implemented, will result in *feasible* mitigation consistent with the mitigation standards of Coastal Act Section 30233:

C. Application Requirements -Mitigation Monitoring Program. When wetlands cannot be avoided and there is a potential loss of existing wetland habitat or value, a Mitigation Monitoring Program must be submitted with the Use Permit and coastal development permit application that, when implemented, will result in the replacement of all lost wetland functions and ~~provide a net gain in wetland acreage~~ habitat, where feasible. A mitigation plan can take several forms, although restoration is the most common form submitted to the City. The City shall administer the Mitigation Monitoring Program; preparation and administration of the plan shall be paid for by the project applicant. A bond or other method acceptable to the City shall be established to guarantee successful completion of the mitigation project. The Mitigation Monitoring Program shall, at a minimum:

...

6. Pg. 5-13, Section 18.50.050(D)(2)&(3) – (1) Delete the second paragraph of subsection 2. and move portions of its contents to subsection 3. to specify provisions of required landscaping plans, and (2) add limitations on planting within or adjacent to ESHA consistent with corresponding changes to LUP Policy OS-6.1.3 discussed in Section II. #16 above.

2. Vegetation removal. ...

~~Limited vegetation removal to reduce fire and other hazards may be approved by the Director without a Coastal Permit. After construction, unpaved **disturbed, undeveloped** areas shall be replanted to provide for the reestablishment of a 100 percent vegetation cover within two years. At five years, the site should support the same habitat removed. **Native, non-invasive p**Plant species that would provide bank stability and habitat enhancement should shall be used where applicable. Remedial actions (e.g., planting of native species and removal of invasive horticultural species) should shall be implemented as necessary to ensure that the site will consist of at least 75 percent native species at the end of five years.~~

3. **Landscaping.** A landscaping plan shall be submitted to the City for approval prior to construction for any site where development will disturb existing or potential native plant habitat. The plan shall provide: ~~for vegetation restoration in compliance with Subsection C.2 above.~~

~~Limited vegetation removal to reduce fire and other hazards may be approved by the Director without a Coastal Permit.~~

- (1) After construction, unpaved **disturbed, undeveloped** areas shall be replanted to provide for the reestablishment of a 100 percent vegetation cover within two years. At five years, the site should support the same habitat removed. **Native, non-invasive p**Plant species that would provide bank stability and habitat enhancement should shall be used where applicable.
- (2) Remedial actions (e.g., planting of native species and removal of invasive horticultural species) ~~should~~ shall be implemented as necessary to ensure that the site will consist of at least 75 percent native species at the end of five years.
- (3) Landscaping with exotic plants shall be limited to outdoor living space immediately adjacent to the proposed development.

- (4) Invasive non-native plants *described in subsections 5(b)(i)&(ii) below and including, but not limited to,* Pampas grass, Acacia, Genista, and non-native iceplant pose a threat to indigenous plant communities and shall not be approved as part of any proposed landscaping.
- (5) All development located within or adjacent to environmentally sensitive habitat areas shall be conditioned to:
 - (a) *Require all proposed plantings be obtained from local genetic stocks within Mendocino County. If documentation is provided to the review authority that demonstrates that native vegetation from local genetic stock is not available, native vegetation obtained from genetic stock outside the local area, but from within the adjacent region of the floristic province, may be used; and*
 - (b) *Prohibit the planting of any plant species on the property that is (i) listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, and/or by the State of California, or (ii) listed as a 'noxious weed' by the State of California or the U.S. Federal Government.*

7. Pg. 5-14, Section 18.50.050(G) – Revise to specify development allowed within other types of ESHA consistent with corresponding changes to the LUP discussed in Section II.(#14) above.

G. Development within Other Types of ESHA shall protect ESHA against any significant disruption of habitat values and shall be limited to the following uses:

1. Resource Dependent Uses. Public nature trails within riparian ESHA are considered a resource dependent use provided that (1) the length of the trail within the riparian corridor shall be minimized, (2) the trail crosses the stream at right angles to the maximum extent feasible, (3) the trail is kept as far up slope from the stream as possible, (4) trail development involves a minimum of slope disturbance and vegetation clearing, and (5) the trail is the minimum width necessary. Interpretive signage may be used along permissible nature trails accessible to the public to provide information about the value and need to protect sensitive resources.

2. Restoration projects where the primary purpose is restoration of the habitat.

3. Invasive plant eradication projects if they are designed to protect and enhance habitat values.

4. Pipelines and utility lines installed underneath the ESHA using directional drilling techniques designed to avoid significant disruption of habitat values.

8. Pg. 5-15, Section 18.50.050(I)(3) – Correct the list of development allowed within other types of ESHA buffer to be consistent with corresponding LUP Policy OS-ESHA-F (C):

3. Other types of ESHA Buffer.

~~a. Nature trails and interpretive signage designed to provide information about the value and protection of the resources, if they are designed to protect and enhance habitat values.~~

~~b. Restoration projects where the primary purpose is restoration of the habitat.~~

~~c. Invasive plant eradication projects if they are designed to protect and enhance habitat values.~~

1. *Uses allowed within the adjacent ESHA pursuant to Section 18.50.050(G)(1)-(4).*
2. *Buried pipelines and utility lines.*
3. *Bridges.*

9. Pg. 5-30, Section 18.64.050(F), Change the last sentence of the second paragraph from “against the public” to “against the City” as follows:

F. Deed Restriction. All ocean-front and blufftop development shall be sized, sited and designed to minimize risk from wave run-up, flooding and beach and bluff erosion hazards and avoid the need for a shoreline protection structure at any time during the life of the development. To inform future owners of such restrictions, the property owner shall be required to record a deed restriction against the property that ensures that no shoreline protection structure shall be proposed or constructed to protect the development approved and which expressly waives any future right to construct such devices that may exist pursuant to Public Resources Code Section 30235 or the provisions of the certified LCP.

In areas where the City, or Coastal Commission on appeal, determines that there are geologic hazards, a development permit shall not be issued until the applicant has signed as a condition of coastal permit approval, a waiver of all claims against the City, or Coastal Commission on appeal, public for future liability or damage resulting from permission to build. All such waivers shall be recorded on the deeds for subject properties. [MOVED FROM PROGRAM LC-6.1.2]

10. Pg. 5-32, Section 18.56.020(A), Clarify the subject of subsection (A) as follows:

18.56.020 – Applicability Definitions

A. ~~Coastal access defined~~ *Definitions of terms used in this Chapter.*

1. Development

...

11. Pg. 5-38, Revise the last sentence of the first paragraph to replace “Fort Bragg Ordinance” with “this Development Code” consistent with the reference to the Code throughout the document as follows:

... ~~of the Fort Bragg Ordinance~~ this Development Code. Lateral access shall be legally described as required in Section 5.10(F)(8).

12. Pg. 5-41 & 5-42, Section 18.56.050 – (1) Revise subsection (F)(b) to clarify that the requirements of the subsection apply to those grants of easement to the City required as a condition of approval of a CDP, and (2) change all references to “private association” in Section 18.56.050(F) to “private **nonprofit** association” including subsections (f), (g) (shown below), and (i):

F. Implementation.

...

(b) For all grants of easement to the City, required as a condition of approval of a coastal development permit, the City shall open the easement to the public as soon as is feasible, and shall be responsible for operating and maintaining the accessway, or the City shall grant the easement to a private nonprofit association acceptable to the Executive Director of the Coastal Commission that is willing to accept, maintain and operate the accessway.

...

(g) Grants of public access easements or offers to dedicate shall be accepted for the express purpose of opening, operating, and maintaining the accessway for public use. Unless there are unusual circumstances, the accessway shall be opened within five (5) years of acceptance. If the accessway is not opened within this period, and if another public agency or qualified private nonprofit association expressly requests ownership of the easement in order to open it to the public, the easement holder shall transfer the easement to that entity within six (6) months of the written request. A Coastal Development Permit that includes a grant of easement or offer to dedicate for public access as a term or condition shall require the recorded offer to dedicate to include the requirement that the easement holder shall transfer the easement to another public agency or private nonprofit association that requests such transfer, if the easement holder has not opened the accessway to the public within five (5) years of accepting the offer.

13. Pg. 5-46, Section 18.56.090(4), - Clarify that temporary signs necessary for environmental or public safety purposes may be posted on a beachfront or public beach consistent with the emergency permit provisions of the Development Code:

18.56.090. CDP PERMITTING AND APPLICATION

...

4. No signs shall be posted on a beachfront or on public beach unless authorized by a Coastal Development Permit. Signs which purport to identify the boundary between State tidelands and private property or which indicate that public access to State tidelands or public lateral or vertical access easement areas is restricted shall not be permitted. Temporary signs posted by a public agency for environmental or public safety purposes may be authorized by the emergency permit provisions of Section 18.71.080 of this Development Code.

14. Pg. 6-38, Section 18.64.070(A) - Revise consistent with changes made to corresponding LUP Policies discussed in Section II (#6) & (#7) above.

A. Post-Construction BMP Requirements.

1. Emphasize Site Design and Source Control BMPs.

Long-term post-construction Best Management Practices (BMPs) that protect water quality and control runoff flow shall be incorporated in the project design of development that has the potential to adversely affect water quality in the following order of emphasis:

...

2. Incorporate Site Design and Source Control in All Development.
Site Design BMPs may reduce a development's need for Source and/or Treatment Control BMPs, and Source Control BMPs may reduce the need for Treatment Control BMPs. Therefore, all development that has the potential to adversely affect water quality shall incorporate effective post-construction Site Design and Source Control BMPs, where applicable and feasible, to minimize adverse impacts to water quality and coastal waters resulting from the development. Site Design and Source Control BMPs may include, but are not limited to, those outlined in the City's Storm Water Management program.

3. Incorporate Treatment Control BMPs if Necessary.
If the combination of Site Design and Source Control BMPs is not sufficient to protect water quality and coastal waters consistent with Policy OS-WQ-2.3, as determined by the review authority, development that has the potential to adversely affect water quality shall also incorporate post-construction Treatment Control BMPs. Projects of Special Water Quality Concern (see 18.64.045) are presumed to require Treatment Control BMPs to meet the requirements of OS-WQ-2.3.

...

<p>15. Pg. 7-25, Section 18.71.040(D)(3)(k), CDP Application Filing Requirements - Revise the alternatives analysis required as a CDP filing requirement to be specific to coastal resources as required by the Coastal Act rather than an alternatives analysis as separately required under provisions of CEQA:</p>

...

k. The description of the development shall also include any feasible alternatives or any feasible mitigation measures available which would substantially lessen any significant adverse impact which the development may have on the environment coastal resources. For purposes of this section the term "coastal resources" shall be defined as including, but not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources. "significant adverse impact on the environment" shall be defined as: "a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project, including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant." (CEQA Guidelines, 14 Cal. Code of Reg. Section 15382).

<p>16. Pg. 7-25, Section 18.71.040(D)(4), Clarify title of subsection (4) as follows:</p>

4. Jurisdiction of Coastal Development Permits.

A. The City's jurisdiction over Coastal Development Permits does not include tidelands, submerged lands, and public trust lands as described in Section 30519(b) of the Public Resources Code and described as areas of Coastal Commission Permit Jurisdiction illustrated on the Local Coastal Program Post-Certification Permit and Jurisdiction Map as amended.

17. Pg. 7-40, Section 18.71.070(F)(1)(c) - Clarify that the required findings of subsection (F)(1)(c) are in addition to any other findings and/or conditions required to be made by the City for the granting of a Variance or Administrative Variance:

F. Findings and decision.

1. **General findings.** The review authority may approve a Variance or Administrative Variance only after first making all of the following findings.

...

- c. The Variance or Administrative Variance is consistent with the General Plan, any applicable specific plan, and the Local Coastal Program. *In addition to any other findings and/or conditions regarding the granting of a Variance or an Administrative Variance, the ~~The~~ City shall only grant a Variance or Administrative Variance if the City determines that the means of accommodating the Variance or Administrative Variance: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Variance or Administrative Variance will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Variance or Administrative Variance.*

18. Pg. 7-45, Section 18.71.090(F)(1)(a) - Clarify that the required findings of subsection (F)(1)(a) are in addition to any other findings and/or conditions required to be made by the City for the granting of a Planned Development Permit:

F. **Commission action.** Following a public hearing, the Commission may approve or disapprove a Planned Development Permit, and shall record the decision and the findings upon which the decision is based.

1. **Required findings.** The Commission may approve a Planned Development Permit only after first finding that:

- a. The project is consistent with the General Plan and any applicable specific plan, and allowed within the applicable zoning district; *In addition to any other findings and/or conditions regarding the granting of a Planned Development Permit, the ~~The~~ City shall only grant a Planned Development Permit if the City determines that the means of accommodating the Planned Development Permit: (1) will not have an adverse effect on coastal resources, (2) will ensure adequate services will be provided to serve the proposed development, and (3) will not displace Coastal Act priority uses. If the City determines that the means for accommodating a Planned Development Permit will have an adverse effect on coastal resources, will not ensure adequate services will be provided to serve the proposed development, or will displace Coastal Act priority uses, the City shall deny the Planned Development Permit.*

...

19. Pg. 8-3, Section 18.80.030(A), Change “City” to “Coastal Zone” as follows:

18.80.030 - Applicability

- A. **Subdivision approval required.** Each subdivision of land within the ~~City~~ *coastal zone* shall be authorized through the approval of a map, a coastal development permit, and any ~~or~~ other entitlement in compliance with this Chapter.

20. Article 10, Glossary – Add the following definition to the Glossary to define terms used in the Land Use & Development Code.

“Areas of special biological significance” are a subset of state water quality protection areas, and require special protection as determined by the [State Water Board] pursuant to the California Ocean Plan adopted and reviewed pursuant to [Water Code Sections 13160 et. seq.] and pursuant to the [Thermal Plan] adopted by the state board.” (PRC Section 36700(f))

21. Suggested Modification No. 14 (Organization) - Add subsection (i to Suggested Modification No. 14, which is a directive modification involving purely organizational changes, to direct the City to add language stating “*and the Coastal Commission on appeal*” to all references to the City as the permit-issuing authority.

14. Suggested Modification No. 14 (Organization)

All changes to the organization of the LCP as follows:

...

(i) All references to the City as the permit-issuing authority shall refer to both the City and the Coastal Commission on appeal.

IV. CHAPTER 18.56 - SHORELINE ACCESS: ADDITION OF SECTION NUMBER CROSS-REFERENCES

Add Section number cross-references in applicable sections of Chapter 18.56 – Shoreline Access that were previously left blank and indicated by“###” as follows:

...

18.56.030 - Access Location Requirements

A. ACCESS REQUIRED

As a condition of approval and prior to issuance of a permit or other authorization for any new development identified in 1 - 4 of this section, except as provided in Section 18.56.020 of this Development Code, a 25 foot wide easement for one or more of the types of access identified in Section 18.56.020(B) of this Development Code shall be required and shall be supported by findings required by Section 18.56.070 of this Development Code; provided that no such condition of approval shall be imposed if the analysis required by Section 18.56.070 of this Development Code establishes that the development will not adversely affect, either individually or cumulatively, the ability of the public to reach and use public tidelands and coastal resources or that the access dedication requirement will not alleviate the access burdens identified. For any project where such mitigation is required, the preferred implementation should be through a recorded grant of easement to the Executive Director of the Coastal Commission or to a designated private nonprofit association acceptable to the City who is willing to accept the easement and willing to operate and maintain the public accessway or trail. Where grants of easement are not feasible because neither the City nor private nonprofit association is willing to accept, maintain and operate the accessway, implementation of required access mitigation shall be implemented through a recorded Offer to Dedicate (OTD) an easement to a public agency or a designated private nonprofit association acceptable to the Executive Director of the Coastal Commission.

...

B. Standards for Application of Access Conditions

The public access required pursuant to Section 18.56.030(A) of this Development Code shall conform to the standards and requirements set forth in Sections 18.56.040(A) through (C) of this Development Code.

...

(a) Minimum requirements. A condition to require vertical public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 18.56.030(A) of this Development Code shall provide the public with the permanent right of access, (1) located in specific locations identified in the certified Local Coastal Program for future vertical access, or (2) located in a site for which the City has reviewed an application for a development permit and has determined a vertical accessway is required pursuant to the access and recreation policies of the Coastal Act or the applicable provisions of the Fort Bragg Local Coastal Program.

(b) A condition to require vertical access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 18.56.030(A) of this Development Code shall provide the public with the permanent right of vertical access and be limited to the public right of passive recreational use unless another character of use is specified as a condition of the development. In determining whether another character of use is appropriate, findings shall be made on the specific factors identified in Section 18.70.070(B) of this Development Code.

(c) Each vertical accessway shall extend from the public road to the shoreline (or bluff edge) and shall be legally described as required in Section 18.56.060(D) of this Development Code. The access easement shall be a minimum of 25-feet-wide wherever feasible. If a residential structure is proposed, the accessway should be sited along the border or side property line of the project site or away from existing or proposed development and should not be sited closer than 10 feet to the structure wherever feasible. Exceptions to siting a vertical accessway along a border or side property line or not closer than 10 feet to a structure may be required where topographical, physical or other constraints exist on the site.

...

(a). Minimum requirements. [Also to be used for blufftop access or trail access, as applicable.] A condition to require lateral access as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 18.56.030(A) of this Development Code shall provide the public with the permanent right of lateral public access and passive recreational use along the shoreline (or public recreational area, bikeway, or blufftop area, as applicable); provided that in some cases controls on the time, place and manner of uses, such as limiting access to pass and repass or restricting hours of use, may be justified by site characteristics including sensitive habitat values or fragile topographic features or by the need to protect the privacy of residential development. Active recreational use may be appropriate in many cases where the development is determined to be especially burdensome on public access. Examples include cases where the burdens of the proposed project would severely impact public recreational use of the shoreline, where the proposed development is not one of the priority uses specified in Public Resources Code Section 30222, where active recreational uses reflect the historic public use of the site, where active recreational uses would be consistent with the use of the proposed project, and where such uses would not significantly interfere with the privacy of the landowner. In determining the appropriate character of public use, findings shall be made on the specific factors enumerated in Section 18.70.070(B) of this Development Code ~~the Fort Bragg Ordinance~~. Lateral access shall be legally described as required in Section 18.56.060(D) ~~5.10(F)(8)~~.

E.3. Blufftop access. A lateral blufftop access easement shall have a minimum width of 25 feet, provided that the width of area within the easement where public access is allowed may be reduced in compliance with Subsection B.2. Average annual bluff retreat (erosion) shall be considered by the review authority when requiring lateral blufftop access.

(a) Minimum requirements. A condition to require public access to or along a blufftop as a condition of approval of a coastal development permit (or other authorization to proceed with development) pursuant to Section 18.56.030(A) of this Development Code shall provide the public with the permanent right of scenic and visual access from the bluff top to the public tidelands.

(b) The blufftop access shall be limited to passive recreational use and coastal viewing purposes unless another character of use is specified as a condition of development. In determining the appropriate character of use findings shall be made on the specific factors identified in Section 18.70.070(B) of this Development Code.

...

(d) The accessway shall be legally described as required in Section 18.56.060(D) of this Development Code, with the furthest inland extent of the area possible referenced as a distance from a fixed monument in the following manner:

...

4. Trail Access

Minimum requirements. A condition to require public access as a condition of approval of a coastal development permit (or other authorization to proceed with development) required pursuant to Section 18.56.030(A) of this Development Code shall provide the public with the permanent right of access and active recreational use, (1) along a designated alignment of a coastal recreational path or trail in specific locations identified in the LCP for implementation of trail access, or (2) in locations where it has been determined that a trail access is required to link recreational areas to the shoreline or provide alternative recreation and access opportunities pursuant to the access and recreation policies of the LCP and Coastal Act, consistent with other provisions of this chapter. In determining if another character of use is appropriate, findings shall be made on the specific factors enumerated in Section 18.70.070(B) of this Development Code. The trail access shall be legally described as required by Section 18.056.060(D) of this Development Code.

5. Recreational Access

Minimum requirements. A condition to require public recreational access as a condition of approval of a coastal development permit (or some other authorization to proceed with development) required pursuant to Section 18.56.030(A) of this Development Code shall provide the public with the permanent right of access and use within a designated recreational access area. Conditions required pursuant to this section shall specify the location and extent of the public access area. The form and content should take the form of requirements in Section 18.56.040(B)(1)-(4) of this Development Code as applicable. The accessway shall be legally described as required in Section 18.56.060(D) of this Development Code.

...

C. Siting and Design Requirements

- A1. Development shall be sited and designed in a manner that does not interfere with or diminish any public right of access which may exist based on the potential public rights based on substantial evidence of historic public use; provided that development may be sited in an area of historic public use if equivalent type, intensity and area of replacement public access is provided on or reasonably adjacent to the project site (parcel). Only when site constraints are so severe that siting of the accessway or recreational use area in its historic location would significantly impair the proposed development and alternative development siting is not feasible, development may be sited in the area of public right of access based on historic use provided that the applicant provides an equivalent area of public access or recreation to and along the same destination and including the same type and intensity of public use as previously existed on the site. Mechanisms for guaranteeing the continued public use of the area or equivalent area shall be required in accordance with Section 18.56.060 of this Development Code. Gates, guardhouses, barriers or other structures designed to regulate or restrict access shall not be permitted within private street easements where they have the potential to limit, deter, or prevent public access to the shoreline, inland trails, or parklands where there is substantial evidence that prescriptive rights exist.

...

18.56.060 - Access Title and Guarantee

D. Legal Description of an Accessway: Recordation

(a) An access dedication (offer to dedicate or grant of easement) required pursuant to Section 18.56.030(A) of this Development Code shall be described, in the condition of approval of the permit or other authorization for development in a manner that provides the public, the property owner, and the accepting agency with the maximum amount of certainty as to the location of the accessway. As part of the condition of approval, easements shall be described as follows:

(1) for lateral access: along the entire width of the property from the mean high tide line landward to a point fixed at the most seaward extent of development (as applicable): the toe of the bluff, the intersection of sand with toe of revetment, the vertical face of seawall, or other appropriate boundary such as stringline or dripline. On beachfront property containing dune ESHA the required easement for lateral public access shall be located along the entire width of the property from the mean high tide line landward to the ambulatory seawardmost limit of dune vegetation;

(2) for blufftop access or trail access: extending inland from the bluff edge or along the alignment of a recreational trail;

(3) for vertical access: extending from the road to the mean high tide line (or bluff edge). A privacy buffer provided pursuant to Section 18.56.060(E) shall be described as applicable.

(b) Prior to the issuance of the coastal development permit or other authorization for development, the landowner shall execute and record a document in a form and content acceptable to the Coastal Commission [or local agency authorized pursuant to 14 Cal. Code of Regulations Section 13574(b)], consistent with provisions of Section 18.56.030(A) of this Development Code, irrevocably offering to dedicate (or grant an easement) to a public agency or private association approved by the Coastal Commission [or local agency authorized by the Commission pursuant to 14 Cal. Admin. Code Section 13574(b)] an easement for a specific type of access as described in Section 18.56.030(B) and a specific character of use as described in Section 18.56.020(C) of this Development Code, as applicable to the particular condition.

...

F. Implementation.

(a) For any project where a public access easement is required, the preferred implementation should be through a recorded grant of easement to the City or to a designated private nonprofit association acceptable to the Executive Director of the Coastal Commission who is willing to accept the easement and willing to operate and maintain the public accessway or trail. Where grants of easement are not feasible because neither the City nor private nonprofit association is willing to accept, maintain and operate the accessway, implementation of required access mitigation shall be implemented through a recorded Offer to Dedicate (OTD) an easement to a public agency or a designated private nonprofit association acceptable to the Executive Director of the Coastal Commission.

(b) For all grants of easement to the City, required as a condition of approval of a coastal development permit, the City shall open the easement to the public as soon as is feasible, and shall be responsible for operating and maintaining the accessway, or the City shall grant the easement to a private nonprofit association acceptable to the Executive Director of the Coastal Commission that is willing to accept, maintain and operate the accessway.

(c) In the case of an Offer to Dedicate or where the City grants an easement to a private nonprofit association, an accessway shall not be required to be opened to public use until a public agency or private association approved in accordance with Section 18.56.060(D) of this Development Code agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction. New offers to dedicate public beach or trail access easements shall include an interim deed restriction that 1) states that the terms and conditions of the permit do not authorize any interference with prescriptive rights, in the area subject to the easement prior to acceptance of the offer and, 2) prohibits any development or obstruction in the easement area prior to acceptance of the offer.

...

H. Title Information

As a requirement for any public access condition, prior to the issuance of the permit or other authorization for development, the applicant shall be required to furnish a title report and all necessary subordination

agreements. All offers or grants shall be made free of all encumbrances which the approving authority pursuant to Section 18.56.060(D) of this Development Code determines may affect the interest being conveyed. If any such interest exists which could extinguish the access easement, it must be subordinated through a written and recorded agreement.

18.56.070. REQUIRED FINDINGS AND SUPPORTING ANALYSIS FOR PUBLIC ACCESS DEDICATIONS

A. Required Overall Findings

(1) Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals, denials or conditional approvals of projects between the first public road and the sea. Written findings of fact, analysis and conclusions addressing public access must be included in support of all approvals or conditional approvals of where an access dedication is included in the project proposal or required as a condition of approval. Such findings shall address the applicable factors identified by Section 18.56.070(B) of this Development Code and shall reflect the specific level of detail specified, as applicable. Findings supporting all such decisions shall include:

a. A statement of the individual and cumulative burdens imposed on public access and recreation opportunities based on applicable factors identified pursuant to Section 18.56.070(B) of this Development Code. The type of affected public access and recreation opportunities shall be clearly described.

b. An analysis based on applicable factors identified in Section 18.56.070(B) of this Development Code of the necessity for requiring public access conditions to find the project consistent with the public access provisions of the Coastal Act.

...

C. Required Findings for Public Access Exceptions

Any determination that one of the exceptions of Section 18.56.030(C) of this Development Code applies to a development shall be supported by written findings of fact, analysis and conclusions which address all of the following:

...

18.56.090. CDP PERMITTING AND APPLICATION

In addition to permit and application submittal requirements established elsewhere in this LCP, new development pursuant to Section 18.56.020(A)(2) of this Development Code shall be subject to the following additional permit and/or application requirements:

...



F7b

FTB-MAJ-1-06
Fort Bragg City Council
"Conditionally" In Favor

CITY OF FORT BRAGG

Incorporated August 5, 1889
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Fort Bragg, CA 95437
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CALIFORNIA
COASTAL COMMISSION
NORTH COAST AREA

January 9, 2008

California Coastal Commission
North Coast District Office
710 E Street, Suite 200
Eureka, CA 95501

SUBJECT: City of Fort Bragg Comprehensive Local Coastal Program Amendment

Dear Commissioners,

The Fort Bragg City Council would like to thank you in advance for your thoughtful deliberations on our comprehensive Local Coastal Program (LCP) amendment application. In essence, this amendment is an entirely new LCP that, upon effective certification, will replace the City's outdated LCP that was prepared more than 25 years ago. We are very eager to complete the certification process and we are grateful to your staff, particularly Tiffany Tauber and Bob Merrill, for the huge amount of effort they expended in evaluating the LCP and coordinating with City staff to create an outstanding document.

Please understand that the City has had only a month to review the numerous "suggested modifications" that were presented in the December 11, 2007 staff report, and this time period was further shortened by the holidays. City staff has combed through the suggested modifications and, in so doing, discovered numerous minor edits which have been addressed in an Addendum to the staff report. City staff also spent hours and hours in conference calls with Coastal Commission staff trying to forge agreements on many of the suggested modifications. While we greatly appreciate the effort that Commission staff has made to respond to our concerns and issues that have been identified during this time, we do not feel that there has been sufficient time for the back-and-forth dialogue and thoughtful review and consideration that a document of this importance deserves. Nevertheless, we understand that the Commission is compelled to take action on the LCP amendment at the January 11, 2008 meeting and we have done our best to distill down the policies and regulations that are still problematic and to suggest workable solutions.

The following table identifies specific Land Use Plan and Implementation Program policies that are included in the suggested modifications and for which (as of the drafting of this letter) the City has been unable to reach agreement with your staff. The City has agreed to literally hundreds of very substantial modifications, and we have reluctantly conceded many points. The table identifies 11

policies or regulations where agreement was not reached, and where we believe compromise on the part of the Commission, is appropriate and achievable.

The City Council respectfully requests that Coastal Commissioners acknowledge our concerns and adopt the alternative language proposed by the City as one final overriding "suggested modification." These are policy changes that the Council considers of utmost importance to the City. Please understand that the Council's preference is for many of these policies to simply be deleted, but we have put considerable effort into crafting compromise language that we believe will satisfy the objectives of both the Commission and the City.

City of Fort Bragg – Requested Modifications

Page/Policy	City's proposed alternative language	Rationale
#1: LUP p. 2-25; Policy LC-2.2	At beginning of second sentence, insert clause reading: <u>"If and when average annual occupancy rates at Fort Bragg visitor facilities exceed 70%"</u> removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor-serving or recreational opportunities.	The City of Fort Bragg has an over-supply of low cost visitor accommodations. In fact, 77% of Fort Bragg's motel rooms are budget rooms and at the same time, the City's average annual occupancy rate is about 30%. This is marginal, at best. Not only is the City interested in attracting higher end lodging uses, but we also expect that some of the low-end, poor performing motels will close over time. As proposed, this policy would likely prevent motels from being converted to other beneficial uses (such as apartments; senior housing, single room occupancy dwellings, etc.) and would result in blighted, boarded-up, squalor in our scenic, tourist-oriented town. The policy is a solution—looking for a problem that doesn't exist in Fort Bragg and the Council believes it will result in significant adverse consequences for our community. While, the Council would prefer for this policy to be deleted, we have proposed alternative language that will "trigger" the policy when occupancy rates are high enough to potentially attract additional investment in the lodging sector, at which point the loss of lower cost rooms might become an issue.
#2: LUP p. 3-5, Policy PF-A	Modify subsection (a) to replace "exists" with <u>"will be available upon completion"</u> and to change "known and foreseeable" to <u>"existing and probable"</u> Modify subsection (b) to replace "known and foreseeable" to <u>"existing and probable"</u> Delete subsection (c)	The City's preference is for these subsections to be stricken as subsection (a) is overly-broad; subsection (b) is redundant with policies in the Circulation Element; and subsection (c) is implicit and unnecessary. We believe that Policy PF-A is sufficient without the three subsections. In the spirit of compromise, the City has offered alternative language. The change to (a) is intended to conform it to the language in the

Page/Policy	City's proposed alternative language	Rationale
		body of the policy which requires that new development "be served upon completion with adequate services" and the replacement of "known and foreseeable" with "existing and probable" is intended to use consistent terminology throughout the document to identify cumulative development. This is the only policy that uses the "known and foreseeable" phrase. Subsection (c) is unnecessary as the body of the policy begins with phrase "No permit for development shall be approved unless..."
#3: LUP p. 3-5; Policy PF-B	Delete Policy PF-B.	Policy PF-B is unacceptable to the City. The Council is committed to implementing Policy PF-C which reiterates Coastal Act Section 30254 and there are numerous policies in the LCP pertaining to giving precedence to priority uses when there is limited service capacity. Policy PF-B takes this concept too far. It is overly-broad, cumbersome, and in truth, barely comprehensible.
#4: LUP p. 3-6; Policy PF-2.2	Reword policy to read: <u>"Develop long-term solutions regarding the supply, storage, and distribution of potable water and develop additional supplies. In addition to capacity for potential buildout under the City General Plan, such water facilities and supplies shall be designed to serve a capacity of development in the coastal zone which does not exceed the amount of development allowed by the certified LCP. The City's water master plan shall identify water system improvements or changes in service area that are designed to ensure adequate service capacity to accommodate existing and probable future coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts."</u>	As drafted in the "suggested modifications", this policy has two problems. First, it doesn't account for the fact that only a fraction of the City's water service area is in the coastal zone and there is a need to provide adequate water supply for future growth outside of the coastal zone. Second, it crudely attempts to link the concept of reserving capacity for priority uses to the sizing and design of individual water supply projects, which are often incremental solutions. As revised, it addresses the entire water service area and correctly identifies the City's water master plan as the comprehensive policy document that identifies and prioritizes improvement projects and that can help achieve the intent of this policy.
#5: LUP p. 8; Policy PF-2.5	Replace 2 nd and 3 rd sentences with following: <u>"In addition to capacity for potential buildout under the City General Plan, expanded wastewater facilities shall be designed to serve a capacity of development in the coastal zone which does not exceed the amount of</u>	This policy is the wastewater equivalent of Policy PF-2.2 (see above) and the City's rationale for proposing the alternative language is the same as for PF-2.2.

Page/Policy	City's proposed alternative language	Rationale
	<u>development allowed by the certified LCP. The City's wastewater master plan shall identify wastewater system improvements or changes in service area that are designed to ensure adequate service capacity to accommodate existing and probable future coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts."</u>	
#6: LUP p. 5-3; Policy OS-ESHA-E; LUP p. 5-9; Policy LC-3.4	Add subsection (4) as follows: " <u>(4) Incidental public service purposes, including but not limited to extensions of cables and utility lines.</u> "	While diking, filling, and dredging of wetlands and coastal water is permitted for cables, pipelines and other incidental public service purposes (see OS-ESHA-C), OS-ESHA-A as proposed by Commission staff does not allow these uses in other ESHAs. This is an oversight, as oftentimes other ESHAs (i.e., riparian) are associated with wetlands and coastal waters and there may be a need to locate such facilities in an ESHA. The Council will not support a "blanket" requirement that directional drilling be used in all instances where pipelines and utilities are installed in an ESHA as it may not always be feasible to do so.
#7: LUP p. 5-10; Policy LC-3.4.1 and Program LC-3.4.2	Delete Policy LC-3.4.1 and Program LC-3.4.2 as it is redundant with OS-ESHA-C	This policy and program were included in the City's initial LCP Amendment submittal. The Commission's suggested modifications, particularly OS-ESHA-C capture their essence and the elimination of the policy and program will reduce redundancy in the LCP.
#8: LUP p. 5-17 and 5-18; Policy OS-WQ-2.5; Policy OS-WQ-2.6	Modify references to "all development" in policies to read: " <u>all development that results in an increase in site runoff of greater than 50%</u> "	The City believes that the application of the Post-Construction Stormwater Runoff Plan requirement to "all development" is too broad. Our Associate City Engineer has recommended that the requirement be applied to development that results in a 50% or greater increase in site runoff.
#9: IP p. 5-11; Sec 18.50.050.C	Insert ",where feasible" at end of first sentence.	
#10: IP p. 5-22; Sec 18.52.050.B	Reword to allow for pipelines, utility lines and bridges in ESHA	This is necessary to achieve consistency with requested modification to OS-ESHA-E, as discussed above.

Page/Policy	City's proposed alternative language	Rationale
#11: p. 5-46; Sec 18.56.090(4)	Add sentence at end that reads: "Temporary signs posted by a public agency for environmental or public safety purposes are exempt from this provision."	This is necessary to enable City/State Parks/DFG to post temporary, short-term, warnings (i.e., "high surf danger", "don't harass seal pups", "don't consume shellfish from this cove" etc)

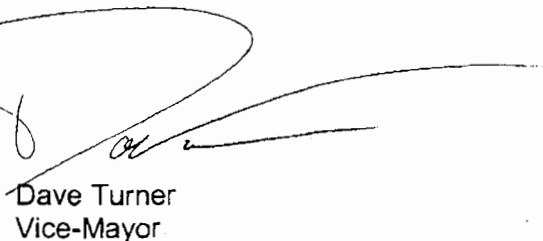
The City Council held a special meeting on January 7, 2008 to review the suggested modifications proposed by the Commission. Following Commission action, we expect to hold additional public workshops and meetings to review the modifications, to obtain community input, and to adopt revised ordinances and resolutions as needed. We would very much appreciate the continued assistance of Coastal Commission staff and prompt attention to further required submittals, in order for this process to be completed as soon as possible.

Again, thank you very much for your time and attention to these issues.

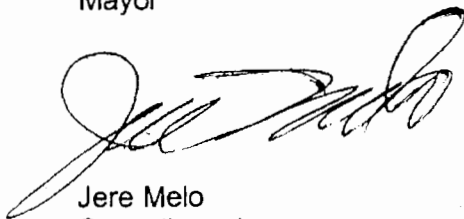
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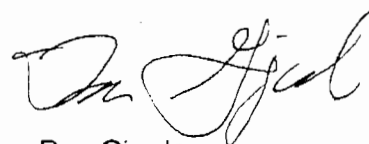
Doug Hammerstrom
Mayor



Dave Turner
Vice-Mayor



Jere Melo
Councilmember



Dan Gjerde
Councilmember



Meg Courtney
Councilmember

Cc: City Attorney
City Manager
Community Development Director
City Clerk



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Coastal Committee
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December 30, 2007

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CALIFORNIA
COASTAL COMMISSION
NORTH COAST AREA

Re: F7b City of Fort Bragg LCP Update

The Mendocino Sierra Club encourages the Commission to support the recommendations of the Staff Report. We have just a few comments.

Overall Staff and the City have done a good job in updating this LCP to reflect current land uses and to provide for well-managed future growth that will protect the environment and coastal resources. We are pleased that several zone changes have accommodated development of new recreation areas such as Noyo Harbor Park, Pomo Point, Glass Beach and the MacKerricher Park southern access.

We support the inclusion of **Policy PF-B** which

prohibits certain development that is not principally permitted under the LCP as amended unless it is demonstrated, in applicable part, that adequate service capacity would be retained to accommodate existing and projected future coastal dependent industrial (including commercial fishing facilities), visitor serving, and recreational priority uses in commercial, industrial, parks and recreation, and public facilities districts. These non-principally permitted uses include, but are not limited to, land divisions and various residential use types.

This seems sound planning given the finite nature of the City's resources such as water and money.

Water has always been in short supply and we hope that monitoring of the Noyo River will continue. The City has historically overdrafted the Noyo River. **Does this LCP provide for ongoing monitoring to prevent over drafts that harm fisheries?** If so, will there be a

similar monitoring program to protect Pudding Creek once the City starts drawing water from it?

Policy LC-2.2 Lower Cost Facilities:

*Protect, encourage, and, where feasible, provide lower-cost visitor and recreational facilities for persons and families of low and moderate income. **Removal or conversion of existing lower cost opportunities shall be prohibited unless the use will be replaced with another offering comparable visitor serving or recreational opportunities.***

This also seems sound planning and we would like to see it implemented and enforced in all areas of Mendocino's Coastal Zone.

Regarding **ESHAs**, we believe 100' buffers are a minimum to protect sensitive species and communities. In no case should they be reduced to less than 50'. We also support the City's original designation of bluff tops as ESHAs.

However,

Suggested Modification No. 8 includes the addition of Policy SF-B requiring that all development located on a blufftop be setback from the bluff edge a sufficient distance to ensure that it will be stable for a projected 100-year economic life (consistent with the 100-year economic life proposed in the City's IP). Suggested Modification No. 8 also includes the addition of Policy SF-C requiring that the siting and design of blufftop development take into account anticipated future changes in sea level.

If this policy is adopted it provides additional necessary protection for blufftops and associated sensitive species.

Program LC-7.2 mentions Measure "C", passed by an overwhelming majority of City residents in 1996 and prohibiting use of any City lands to support off-shore oil development. We understand Staff's argument to delete this policy of the LCP, but do appreciate the retention of the discussion of Measure "C" in the revised policy.

We also support Staff's recommendation that the Commission encourage the Federal government to delete the Coast of Mendocino from future oil lease sales, except in case of emergency. Thank you for this and please copy the Mendocino Sierra Club with all correspondence between the Commission and the appropriate Federal agencies regarding this issue of vital importance to all area residents.

One final issue of concern is the prioritizing of aquaculture as a coastal dependent use in **Policy LU-AQ-Q**. We fully support Staff's recommendations regulating the development of aquaculture. These seem stringent enough to make any such development economically unfeasible. Aquaculture is fraught with known environmental consequences (see attached) which we do not believe can be reduced to a level of insignificance. Codifying aquaculture as a priority use of all ocean front lands can send a wrong message to developers. We recommend language changes that would emphasize aquaculture no more than any other coastal dependent use.

Thank you for your attention to our concerns. And thanks to Staff for such a thorough Staff Report and to the City for its intention to preserve the environmental quality of Fort Bragg.

Submitted by
Rixanne Wehren
Coastal Committee chair

Attachments: *Potential Hazards and Risks Associated With the Aquaculture Industry* Erundu, E.S & Anyanwu, P.E.

Food For Thought David Dobbs, Sierra Club Magazine

Review

Potential hazards and risks associated with the aquaculture industry

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Aquaculture, the farming of aquatic organisms, is fraught with potential hazards and risks which are categorized into occupational, environmental, food safety and public health. This paper reviewed major hazards and risks associated with the aquaculture industry and proffered strategies for their management and control. Aquaculture stakeholders should therefore ensure that guidelines and policies which promote an environmentally friendly and sustainable industry are instituted and enforced.

Key words: Hazards, risks, aquaculture.

INTRODUCTION

Aquaculture according to FAO (1997) is defined as 'the farming of aquatic organisms including fish, molluscs, crustaceans and aquatic plants in selected or controlled environments'. Aquaculture production may have arisen as an intervention mechanism to enhance food production. It is currently one of the fastest growing food producing sectors in the world. Its global importance is related to its contribution in the reduction of the supply – demand gap of fish products. Production statistics indicate that between 1984 and 1996, there was a three fold increase in aquaculture products (FAO, 1997). The rapid growth in the aquaculture sector contrasts with the decline or near stagnation in the growth of supplies from capture fisheries. The implication is that aquaculture will continue to play an increasing role in fish supplies.

Aquaculture production can be partitioned into the formal and informal sectors of the economy. In the formal aquaculture sector, ownership of farms is corporate and well organized. The farms are large and operate under advanced technology. This is common among the developed countries such as USA, Japan, Norway and France, which contribute about 8.6% of the total global aquaculture production (WHO, 1999). The informal

aquaculture, however, consists of small holder units, subsistent aquaculture practitioners and semi-organised units with low technology and infrastructure especially in the areas classified as low – income – food – deficit countries. This group is represented even in the major aquaculture producing countries such as China, India, Philippines, Indonesia and Thailand, which contribute about 80% of the global aquaculture production (FAO, 1995). Aquaculture producers from Africa also belong to this group. FAO (1997) noted that about 87.1% of the total aquaculture production was from developing countries.

Aquaculture may therefore be a veritable means of alleviating hunger as well as curbing seasonal supply of fish products. Furthermore, it has the capacity of creating jobs since labour would be expected in all the associated industries. Aquaculture is multi-faceted and also presents a diverse array of environment ranging from freshwater to marine and from simple stagnant ponds to high tech computerized closed indoor water recirculation systems. The industry is therefore, fraught with potential risks and hazards.

Johnson (2000) defined hazard as 'the presence of a material or condition that has the potential for causing loss or harm'. This implies that there is an inherent existence of threat in that system. Risk on the other hand is defined as 'a combination of the severity of consequences and likelihood of occurrence of undesired

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outcomes' (Johnson, 2000). In other words, risk is the likelihood that harm or injury from a hazard will occur to specific individuals or groups exposed to a hazard. Thus, for every system or process, there are associated risks and hazards no matter how well managed the system is.

There are inherent hazards and risks associated with aquaculture production. In developed countries there have been heated debates among stakeholders as to the risks and hazards of the system. This does not in any way preclude the importance or significance of aquaculture in the food sector. Rather it is a means of resolving issues related to the undesirable effects of the system. Unfortunately, the awareness has not been created in developing countries that produce a major proportion of the products. This is predicated on the fact that majority of the producers belong to the informal sector of the economy. Karanja et al. (2003) observed that, although this sector contributes significantly to the national economy, its semi-organised and unregulated status create a situation where workers are exposed to innumerable hazards. Thus injuries and occupational diseases, which are preventable, and food safety issues abound in such systems resulting in unnecessary loss of man hours, skilled workforce and lives. The situation is exacerbated by the fact that these farms operate outside the institutional regulatory frameworks and with minimal supervision from regulatory bodies.

This paper therefore, highlights the information on hazards and risks in aquaculture and proffers strategies for their management and control.

AQUACULTURE PRODUCTION SYSTEMS AND ANCILLARY INDUSTRIES

The associated processes in aquaculture are:

Processing: Fish products are processed and packaged for local consumption and export. The processes are carried out at the local and industrial level. These include smoking, chilling and freezing, canning, filleting and production of other value – added products.

Laboratories: These are established in research stations, large hi-tech farms and processing plants for environmental/facility water quality monitoring and quality control.

Feed mill plants: These are established to produce on farm or commercial feeds. The scale of operation is varied.

Associated industries: These are industries that are involved in manufacturing equipment used in aquaculture. These include nets, fertilizer plants, biofilter media, drugs, fibre glass tanks, etc. Finfish, shell fish and other farmed aquatic organisms are produced in freshwater, brackishwater and marine environment.

The receptacles for cultivation of these organisms include earthen ponds, pens, cages, rice fields, race ways, open water bodies, etc. Based on the level of operation, the system is classified as:

- **Extensive:** here no exogenous input is used and stocking density is low.
- **Semi-intensive:** fertilizer is applied here to augment or stimulate natural production of food organisms for the cultured organisms; stocking rate is moderate; supplementary feed is provided.
- **Intensive:** high density stocking rate and provision of a nutritionally complete feed.

About 70 – 80% of the total global production of farmed fin fish and crustaceans takes place within extensive and semi-intensive farming systems (FAO, 1995). In Asia, integrated farming system, in which livestock wastes are inputs in fish production and waste – water fed systems, in which domestic sewage and municipal waste water are used, are common practices.

In Africa, aquaculture is practiced in earthen ponds where livestock wastes (used in fresh or dried state) are used extensively for fertilization. In Asia, cages and pens are usually installed in highly eutrophic aquatic systems. In the earthen pond systems, polyculture of fish species is common in order to fully exploit all the feeding riches. Feeding is supplementary and usually agro by products are utilized for that purpose. However, in the developed countries, aquaculture production is based essentially on the intensive monoculture of high value fish in ponds, tanks or cages at high stocking densities and fed manufactured complete diet. Fish culture in recirculating system is becoming popular in developing countries. Here water is reused after undergoing a purification process. These farming systems have effluents which are discharged into natural water bodies or adjoining land.

HAZARDS AND RISKS

Hazards and risks related to aquaculture can be categorized into occupational, environmental and food safety and public health. Each of the different types of hazards has other components such as biological and chemical.

Occupational risks and hazards

Aquaculture industry has diverse workplaces with individual peculiarities. The hazards in aquaculture can be classified into physical, chemical and biological.

Physical: There are several physical risk factors in the aquaculture industry. Farm hands and other workers in aquafarms are susceptible to many injuries in the course of their work. The fish farmers in the informal sector are

more vulnerable because according to Clarke (2002), governments in developing countries have an apathy to occupational health and safety issues. All the stakeholders – farm management, workers and governments do not appreciate the problems that can be solved or mitigated through occupational safety and health. The list of physical hazards are as follows:

- Noise: Feedmill workers (especially those that operate with locally fabricated machines in the developing countries) are exposed to excessive noise. Ojok (1995) attributed the following harmful defects to noise:- hearing defects, hearing loss and mental fatigue.
- Injuries: Farmers are exposed to diverse injuries such as:
- Sting from fish spines: This arises during fish handling without appropriate safety devices. It may cause severe pains and can result to tetanus infection or wtlow.
- Cuts, sprain, fracture, etc: sharp implements/objects such as knives, oyster shells, falls and other predisposing factors can cause these injuries. Hatchery workers are also exposed to the risk of needle stick injury which can open a gateway to many viruses and other diseases.
- Occupational asthma and rhinitis: Feedmill workers are at risk of contracting these diseases. Karkkainen (2002) observed that the greatest risks occur in the foodstuffs and agricultural sectors. He attribute dust released from flour and animal feed mill as the second most common cause of asthma.
- Snake bites, crab clawing and bites from fish (such as tiger fish, snapper, etc) are hazards workers in earthen pond fish farms are exposed to, especially when they are not using appropriate protective gear. This is prevalent in rural fish farming.
- Mechanical injuries: These are associated with laboratories and processing plants.

Chemical: Aquaculture practitioners are exposed to chemical hazards through the following routes:

Constant use of chemicals: This includes inorganic fertilizers which are used extensively in enriching fish ponds. Others are lime, pesticides, formaldehyde, etc. Some of these are caustic and can cause severe burns or skin irritation resulting in severe cases of occupational dermatitis. Some laboratory chemicals are hazardous and. Inhalation may lead to development of respiratory ailments such as bronchitis, rhinitis and asthma (Uronu and Lekei, 2004). Direct contact with these chemicals could result in burns, skin irritation and allergies. It has been observed that laboratory workers that have prolonged exposure to organic solvents such as chlorinated hydrocarbons, alcohols, ester, ketone,

etc. are at risk of brain and nervous system damage. The symptoms include premature ageing, memory impairment, mild depression and anxiety. Karkkainen (2002) has also attributed the following symptoms to formaldehyde poisoning: allergic dermatitis asthma and rhinitis.

- Acute and chronic pollution of water ways: Pesticides, oil spills, and other xenobiotics can pollute ponds and water sources which can also pose risks for workers that work in such farms.
- Flocculants: These are applied to ponds to precipitate suspended clay particles (WHO, 1995). Examples are aluminium sulfate (alum), calcium suilhate (gypsum).
- Disinfectants: these are used to disinfect equipment and holding units – e.g. formalin hypochlorite, etc.
- Fumes, smoke and soot: Fumes from water pumping machines feedmill and other machines; and smoke inhaled by workers smoking fish or drying feed are considered serious health risks. These are associated with asthma, cancer and other serious ailments.

Biological: These include parasitic infestation and pathogenic infections.

- Parasites: Examples include leeches in ponds which attack individuals that the wade unprotected. In developing countries where human and animal wastes are used as inputs, nematode, cestode and other parasites are hazards, farm workers are exposed to.
- Pathogens: Risk of fungal and other pathogenic infections such as vibrio has a high likelihood in intensively manured ponds. Charmish (1996) observed that individuals pricked by spines of *Tilapia* sp infected by *Vibrio vulnificus* caused amputation of fingers. Fatal cases have also been reported in NSSP operations Manual, 1992 Revision.

Environmental hazards and risks

There are a variety of risks mediated by environmental effects of aquaculture. Goldberg and Triplett (1997) divided these into four categories as follows:

Biological pollution: The introduction of non-endemic species into natural water arising from their inadvertent release from aquaculture facilities is considered a serious environmental threat. The introduced species may carry diseases and parasites alien to the native with disastrous Consequences (WHO, 1989). Instances abound where exotic fish species wiped out native stocks (Kutty, 1981). The Introduced species may have the tendency of

out-competing the native stock partly because they do not have natural predators, parasites and pathogens in their new environment. This trend creates biodiversity loss in natural waters.

The introduction of genetically modified organisms such as transgenic fish is considered hazardous to the environment. Kapuscinski and Hallerman (1990) and Hallerman and Kapuscinski (1999) noted that such fish would pose ecological or genetic risks when they escape from production facilities. The authors further stated that the ecological hazards would include the possibility of the transgenic fish being a voracious predator or competitor thereby impacting negatively on key ecological processes. Inter breeding of introduced or transgenic fish with the native stock could cause dilution of the genepool. Studies by Farrell et al. (1997), Muir and Howard (1999) and Delvin et al. (1999) have highlighted considerable risk of transferring transgenic fish.

Transmission of diseases and parasites to native stocks from cage and pen facilities is a major problem. In many countries disease testing and certification programs for animals are not implemented with the result that native stocks are exposed to non endemic parasites and diseases from aquaculture facilities.

Organic pollution: The effluents from aquaculture facilities constitute significant sources of organic pollution. The effluents, which consist largely of fish and feed wastes, contain large quantities of nutrients that damage the water quality and also generate unwanted algae.

Chemical pollution: Use of chemicals in ponds and laboratories constitutes considerable risk to the environment. These chemicals can become disruptive and when they find their way into natural aquatic systems they can cause irreparable damage to the ecosystem. Chemicals such as fertilizers, pesticides, antifoulants (for cages), chemotherapeutants are all considered risk factors in the environment.

Habitat modification: Aquaculture sites negatively impact the environment. Aquaculture development can sometimes change landscapes of aquatic systems resulting in habitat destruction and loss of biodiversity. The newly created habitat may not be able to sustain the natural ecological balance.

Food safety and public health hazards

Aquaculture products like other foods have hazards that may adversely affect the consumers' health. The production system also presents risks to public health. The major health risks of aquaculture products are biological especially for the organisms produced in waste water or water receiving animal and human wastes.

Edward (2001) noted that the pathogenic, enterobacteria (from the human digestive tract), have been found in fish guts. This, therefore, raises the question of the safety of consuming fish products from such environments. Food-borne trematodes such as *Clonorchis sinensis* and *Opisthorchis viverrini* are known to cause diseases particularly among Asians that eat their fish raw or poorly cooked. Enteric diseases caused by trematode parasites have been reported in Egypt and Republic of Korea (WHO, 1999). Fish borne nematodiasis have also been reported as incidental infections.

There are hazards associated with human pathogenic bacteria in finfish and crustaceans. These bacteria are partly the indigenous flora and partly a consequence of contamination through human or animal waste (Buras, 1993). Other sources of contamination include post-harvest handling and processing. Aquatic microorganisms such as algae and detritus produce toxic compounds, which can present significant human health risks. A good example is the dinoflagellate, *Alexandrium tamarensis*, which causes toxic red tide (Buras, 1993). Humans that consume shellfish (lobster and crabs) that have ingested this organism stand the risk of being afflicted with paralytic shellfish poisoning (Price, 1997). Shellfish have also been implicated as vectors of human pathogens such as vibrio bacterium which is a causative organism of human gastroenteritis. Filter feeders such as clams, mussels and oysters, which accumulate contaminants in their internal organs, also present potential threat to the health of consumers. Ahmed (1991) and Hackney and Pierson (1994) reported that the greatest number of seafood – associated illnesses are from consumption of raw molluscs harvested in waters contaminated with raw or poorly treated human sewage.

Some chemical products used in aquaculture are considered hazardous in terms of food safety. These include chemical fertilizers, lime, flocculants, algicides, disinfectants and chemotherapeutants. Some of these compounds may be biomagnified in the animal tissue and so consumers are at risk of intoxication with the chemicals. Other chemicals may be released from other sources e.g. industrial hydrocarbons and thus pollute aquaculture water source. This is more pronounced in urban aquaculture where waste water is reused. WHO (1999) recommended that fish raised in contaminated water should be considered as risk.

Other hazards of public health interest include proliferation of mosquito larvae and cercaria which increase the incidence and prevalence of malaria and filariasis, respectively. This is more common in developing countries where numerous small fish impoundments are constructed thus promoting higher densities of these organisms (Mott, 1996). Food contamination by residues of antibiotics and veterinary drugs is also considered a hazard. Furthermore, antibiotic resistance has been reported in areas where farmed aquatic animals are receiving treatment. Angulo

(2000) reported that the use of antibiotics by the Ecuadorian shrimp farming industry caused the development of multidrug resistant *Vibrio cholera*. Humans infected by such antibiotic – resistant organisms would find treatment complicated. The contentious issue of the safety of genetically modified fish is worth looking at. Transgenic fish have been classified as hazardous in terms of food safety because of their potential allergenicity and toxicity (Hallerman and Kapuscinski, 1999). These claims, however, need to be validated. In addition introduction of pathogenic organisms during processing of products under unhygienic conditions is also of public health importance.

STRATEGIES FOR MANAGEMENT AND CONTROL OF HAZARDS AND RISKS IN AQUACULTURE

The principles for controlling hazards in aquaculture will include the identification of hazard, control of the hazard and monitoring of the effectiveness of the controls. This paper has identified the risk factors and hazards in the section above. In this section, control measures to reduce or minimize aquaculture risks would be proffered. As stated earlier, ignorance on the part of workers and the apathy of employers and government agencies to their plight have caused preventable fatalities.

Production of safe foods from aquaculture is, therefore, the shared responsibility of governments, industry and consumers, each having an important role to play in the protection of human health. Action at all levels is required for the development of regulations and the provision of resources for enforcement of, education and training in, and research on, responsible practices of aquaculture. We recommend as follows:

- On employment, workers should be well-instructed and trained on the associated risks and hazards of their vocation. There should be a re-orientation of old staff so as to inculcate safety consciousness.
- Personal protective gear should be provided for all categories of staff. The use of such gear should be strictly enforced to reduce risks of accidents or other workplace hazards.
- Laboratory workers and other staff using chemicals should be subjected to regular medical checks for early detection of any adverse impact of chemical intoxication.
- There should be the provision of first aid kits at all aquaculture facilities and adequate instructions on their usage.
- Proper records of aquaculture – related hazards should be kept (and updated) so as to create awareness of the existence of such. This will serve as an advance preventive or precautionary measure.
- Specialist occupational medical clinical service with

- Specialist occupational medical clinical service with access to specialized diagnostic and management resource should be established. This service would provide diagnosis and management of occupational diseases and would also serve as quick intervention.
- Governments need to put in place proactive policies and legislation that will envisage problem and institute preventive measures. Enforcement of these measures is imperative.
- Guidelines should be provided by relevant stakeholders on how to achieve a basic level of environmental protection within the vicinity of aqua farms.
- Countries should adopt the Hazard Analysis Critical Control Point (HACCP) framework (Reilly and Kaferstein, 1997) which is an innovation intended to improve food safety.
- To develop appropriate food safety controls, a proper understanding of the association between reduction in hazards associated with food and reduction in risk to consumers is of central importance.
- An integrated approach involving the health education, vector control and selective population chemotherapy should be adopted to address parasite problems.
- Indiscriminate and unregulated use of chemicals and therapeutics should be discouraged so as to protect the ecosystem and public health.

CONCLUSION

Hazards and risks have the potential of affecting people and all human activities have this inherent capacity. Aquaculture is no exception. However, available information is largely on hazards and risks in developed countries. Unfortunately, in the developing countries where 87% of the global aquaculture production takes place both workers, employers, government and consumers have tended to ignore policies (where present), which could ensure safe aquaculture practice. In some countries policies to ensure the enforcement of regulatory standards have not been instituted. This has resulted in unregulated aquaculture with the attendant adverse impact.

It is our view that aquaculture stakeholders should work in unison to provide guideline and policies that would promote an environmentally friendly and sustainable industry.

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